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The CAUSE and CURE of CRIME

C. R. HENDERSON

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BY

Charles Richmond Henderson, Ph.D.

Professor of Sociology in the University of Chicago

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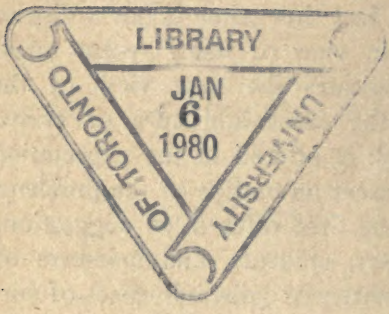
EDITOR'S PREFACE

THE emphasis of Professor Henderson upon the fact that crime is not a disease is refreshing in view of many recent utterances, and indicates the sane view of the author upon the cause and cure of crime. This little book is offered in the expectation that it may present an outline of the problems and at the same time offer some suggestions to police officers, students, and members of courts on the matter of jails, influences of surroundings, and lack of education and right home conditions upon the creation of criminals. The well-known work of the author, *Prison Reform and Criminal Law,* should make this book equally welcome.

F. L. M.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AUTHOR'S PREFACE

THE invitation to publish this book furnishes an occasion for urging afresh the improvement of our city police stations and county jails, which were so severely condemned by the last International Prison Congress. The nation which originated the Reformatory and the Juvenile Court, and which has developed the parole system and probation of adults, has yet to learn and feel how its honor is sullied by our local prisons. Recent discussions and experience require new emphasis on psychological laboratories in schools, courts, reformatories, and prisons; on work colonies for alcoholics and degraded misdemeanants; on a better legal basis for prison regulations; on reform of the police to save them from corruption in unholy alliance with the social evil, and to train them for the fine calling of prevention of crime; and on the readjustment of the criminal law and procedure to make them conform to the requirements of modern knowledge of the criminal character.

CHARLES RICHMOND HENDERSON.

The University of Chicago,
October, 1914.

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The Cause and Cure of Crime

CHAPTER I

Introductory

OUR first duty in a study of this kind is to have a clear understanding of the term criminal. Confusion here means confusion all along the line.

Our next duty is to know how men have become anti-social and criminal. This carries us back to the study of causes, both personal and social. Such a study should be based upon original knowledge of the person studied.

1. What Is a Criminal?

In this chapter we are concerned with those characteristics which warrant the use of the term criminal. The only way to know at first hand the nature of criminals is to live with them. But for most persons this is neither agreeable nor practicable.

Next to personal acquaintance come the life stories of offenders. A few examples are

printed which will illustrate some varieties of criminal experience and the steps downward into that underworld.

2. Cases

"B 2732" (Eastern Pennsylvania Penitentiary, 76th Annual Report). — He was, at the date of record, serving his eighth term in that prison; when first received he was eighteen years of age. His previous sentences were as follows: One year and six months for burglary; one year for counterfeiting; two years for attempted burglary; three years for conspiracy; two years and six months for counterfeiting; four years for counterfeiting. In each case he was allowed reduction of time for good behavior as a prisoner, under the commutation law. Then ten years more for counterfeiting. He is known to have been a pupil in a reform school, and had gone to a county prison for assault and battery and for larceny. He had attended school, was occasionally intemperate, and was unmarried.

"B 2760" (Eastern Pennsylvania Penitentiary). — His first sentence was to the Phila-

delphia House of Refuge for one year and nine months. At the age of twenty-one years he was convicted of larceny and sentenced to two years and six months in this penitentiary. Discharged March 25, 1888, he was convicted on August 10, 1888, of larceny and sentenced to two years in this penitentiary, and went out June 10, 1890, to return for the same offense November 2, 1891. Discharged March 2, 1894, he was convicted again of larceny October 3, 1895. Discharged March 3, 1897, he returned June 21, 1898. Discharged May 21, 1899, he returned September 6, 1901. Discharged December 6, 1903, he returned April 11, 1905, for breaking and entering. He also served two terms in the Philadelphia county prison. He attended the public schools five years; intemperate; married but has no children.

Comment on the Eastern Penitentiary Cases. — These records are very incomplete. They tell little of the ancestry, home life, associations, temptations, personal characteristics, habits of the convicts. Yet some points are brought out in a very striking way. After reading many pages of these descriptions, run-

ning through many years, wearisome and monotonous as they become, they yet suggest tendencies which we should study: the early age of the offenders; the habit of crime—which would be still more evident if we had a full record of the offenses which were not detected; the feeble influence of prison punishment—so evident to the officers that they declared they had little faith in the reformability of most prisoners. The evil influence of alcohol is hinted at; but many other causes are not mentioned.

*A German Case; More Carefully Recorded.**—N. . . . is twenty-four years old, and has already served three terms for theft. His father, a lockmaker, died in delirium when N. was nine years old; his sister is neurotic, and he is not well balanced. Two brothers have been punished for assaults. N. began picking pockets when twelve years old. Shortly after he reached his sixteenth year he was imprisoned six months. Not a long time passed after his release until he went to prison again a month for picking pockets. He claims that he passed a whole year without committing

* Haersolte, No. 33.

theft; at any rate he was not caught. For his third punishment he spent a year in prison for theft of a purse. Then he became a house servant. N. is very sensitive and sometimes is in bad humor a whole day without any special reason. He chats with enthusiasm of the year 1896 when he worked in the Exposition at the trade of pickpocket, from which he saved up 600 to 700 marks. He says he knew he might be punished, but took the risks. He makes on one the impression of a nervous man, not vicious, but without energy of will.

*Type of a Hard and Brutal Villain.**— R. . . . is aged twenty-seven years. His father, a drunkard, died when he was eight years of age; the mother having to work out could give him little attention. He was slow in school. From being a baker's apprentice he passed to the occupation of nurse, when he learned about drugs and how to produce abortion. He killed his own wife in an attempt of this kind, and was sent to the penitentiary for five years. When free he returned to the same criminal practice for money and killed

* Haersolte, No. 80.

another woman, cut up the corpse, and threw the pieces in a basket into the water. He is nervous, brutal, voluble; of repentance not a trace.

*Two other Cases from a German Prison.** —G. . . . is twenty-three years old. His father committed suicide when G. was fifteen years old. Of sixteen brothers and sisters, twelve are dead. Two brothers are epileptic. At ten years G. was compelled to earn money as an errand boy, but he learned very well in school until he was fourteen years old. He liked arithmetic and seems now to be intelligent. At thirteen he was sent to prison four months for being a ringleader in a gang of thieves. After his school days he became apprentice to a tailor, but he could not endure to sit still. He became an errand lad, and at sixteen years stole $30 which he squandered on a girl, and went to prison for two months. Some months after his discharge he was sent to prison for embezzling 360 marks, and some months later was sent for two years to the penitentiary for theft. The society for discharged prisoners found him work as a tailor;

* Haersolte, No. 8.

but he quarreled with a comrade and returned to Berlin. In the saloons he consorted with thieves and was soon in prison for burglary. G. knows he is going down, but is too weak to withstand temptation. He cannot reflect; his repentance is shallow; without constant guidance he quickly falls.

T. . . . is twenty-three years old.* His father is a mason; his mother died of tuberculosis when he was three years old, and his only brother died of the same disease. When he was quite young his stepmother beat him. At school he learned with difficulty and could not reach the highest class. As a child he would sit looking out by the hour without thinking of anything in particular. T. is very sensitive and is often depressed without knowing any reason for it. To the question, "13 times 17 equals what?" after long thinking he answered 231, then, later, 221. In his thirteenth year, on account of a series of thefts, perpetrated in company with a band of thieves, he was sentenced to four months in prison, and later went to a reform school. At sixteen he was sentenced to prison for thefts, for a term

* Haersolte, No. 10.

of seven months and two weeks. If he saw valuable objects without an owner near, he could not resist the temptation to take them. In prison he took advanced lessons in the art of stealing. Shortly after his release he stole the purse of a lady in a crowd, and within three months he was in prison again for various thefts to serve one year and two months, and soon after discharge went back for one year and six months. Then he evaded the police for a whole year, having acquired more skill in his craft, but returned for eighteen months, then for three months, then later a term of one year. He took delight in picking pockets; "It excites me frightfully; I am always pale from it."

T. . . . is extremely weak in will, and light-minded, as is shown by his successive punishments. He cannot drink alcoholic beverages. He is exceedingly fond of music and will pay out his last cent to hear it. He has a horror of girls, but practices self-abuse. Shall we call him incorrigible? But perhaps much might have been made of him, with his pronounced love of music, if he had had guidance in childhood.

B. W., No. 5131, sentenced November 27, 1905, two to fourteen years for grand larceny. He was convicted at B. in 1900 for petit larceny and sentence suspended, and again convicted and served sentence of one to three years for petit larceny, 1901-04, in the reformatory. He also stole many times and was not caught. Most of his stealing consisted in the taking of guns and pistols and he might properly be called a petty thief.

Ancestors: His father was a drunkard; his mother, a prostitute; and his grandfather on his mother's side a thief who had done time. His mother's sisters except one were profligates and thieves and many of his cousins were bad.

Immediate Family: His brothers were all drunkards and considered crooked; two of them having been charged with theft and one with arson. His sister has been married three times and is a profligate.

E. S., No. 6522, sentenced January 11, 1906, one to three years, for larceny and burglary. He was first received here in 1901 with a sentence of two to fourteen years for robbery and was paroled and discharged. He

then committed the crime for which he is now serving, but before being transferred from the jail to the institution, escaped from jail, was arrested, served a term for robbery, and, upon his release, was taken by the officers of the county from whose jail he had escaped and returned to I.; he was immediately brought to the institution and commenced serving the sentence which had been passed upon him before his escape. He attributes his downfall to the influences of immoral women and whiskey.

Ancestors: His father was a drunkard for many years, but has abstained for some time. On his father's side, his grandfather was a drinker and a fighter; one of his uncles was a drinker; and one of his uncle's children was arrested for burglary and robbery, but he does not know if he was convicted. He says that his mother was a good woman and that her family were good people. His father and mother are divorced.

A. W., No. 6443, sentenced May 7, 1909, one to eight years, for petit larceny. He served a sentence of one hundred and twenty-nine days in the I. Workhouse for loitering in

1907 and has been arrested several times in D.

Ancestors: His father was a plasterer by trade and drank some. His mother was not strong physically, but kept the home clean. They did not own their own home, but moved once or twice a year and lived usually in fair neighborhoods. The family were provided with good plain food. He says that his grandfather on his mother's side was at one time a mayor of a town in a western state.

Immediate Family: He has one sister who is now married and so far as he knows is a good woman.

R. W., No. 4596, sentenced June 10, 1904, one to fourteen years, for grand larceny. He lived largely with his grandparents, but has served twenty-two months in the Boys' School for larceny.

Ancestors: His father was a drunkard and has been arrested several times. One of his father's brothers has served a term in state prison and another is a drinker. His father's sisters married well and are good people. His mother is dead, but she was a church worker and so far as he knows her people were all good.

E. A., No. 5548, sentenced February 2, 1907, two to fourteen years, for robbery. The crime for which this man was sentenced was the robbing of and attempting to kill his brother. His brother had in his possession at the time of the assault notes for several hundred dollars which this man had given in settlement for a farm. After assaulting his brother and crushing his head, leaving him almost beaten beyond recognition and thinking him dead, he took the notes and went to town, assisting the hunt for his brother. He later confessed his guilt.

Ancestors: He states that his parents were poor and lived on a farm, but that they were respectable, and he does not know of their having any trouble except that they were separated.

A few cases, presented by Dr. D. C. Peyton, Superintendent of the Indiana Reformatory, will illustrate the domestic conditions which cause criminality.

Especial attention should be called to two or three cases that show a distinctly criminal line and other forms of moral defectiveness straight through from the grandparents

down. I mention first the case of B. W., sentenced to this institution for one to three years for the crime of petit larceny and discharged on expiration of sentence. He was again arrested for larceny and sent here on a new sentence, was paroled and violated his parole by committing larceny again and he is now with us. This boy's grandfather on his mother's side was a confirmed thief and did time, but the young man does not know where. Two of his aunts on his mother's side were thieves and prostitutes, and his mother was also a profligate for a while. Two or three of his cousins on his mother's side were thieves and looked upon as bad men. In another case of the children of his aunt on his mother's side, the aunt was a prostitute and a thief, and she had one boy and two girls, and the son was a thief and both of the daughters were profligates.

Among all his aunts and uncles on his mother's side there seems to have been but one aunt who was all right and she reared a good and respectable family. Of his brothers R. was a thief and had been arrested, charged with arson; O., another brother, was a thief

and drank; another brother, E., was always considered crooked, but had never been caught. This boy's father was a drunkard and a fighter. His sister has been married three times and is a profligate. This young man is twenty-four years of age.

Another case is that of E. S., who was here for robbery and burglary and was paroled in 1902 and received his final discharge. About four years after his final discharge he was arrested and convicted of petit larceny; broke jail, went to Chicago, where he committed innumerable robberies, etc., was arrested and convicted of robbery and burglary and was sent to the state prison at Joliet, from which prison he was paroled and returned to Indiana to serve the one to three year sentence which had been given him prior to his escape from jail in this state.

This young man tells me that his grandfather was a heavy drinker and fighter. Also that his father up to twelve years ago had been a heavy drinker and fighter. One uncle on his father's side was a drunkard. A cousin on his father's side was arrested for burglary and robbery. On his mother's side no trace

of crime or defectiveness is shown. He states that women and whiskey were the causes of his downfall. He is an exceedingly bright man of about twenty-eight years of age, a fine mechanic, and is in charge of all of our engines in the engineering department on the day run. He is an unusually capable fellow.

He made his escape from this institution just about a year ago, was out a few days when we recaptured him almost frozen and starved. I placed him in the hospital, treated him kindly, and he was so impressed with his treatment that he made a confession that saved a sensational delivery.

He has been my friend and loyal to the institution ever since and I have placed him right back in the engineering department, from which place he made his escape, and from which place he could make his escape any time he cared to do so. He assures me, however, that he will never give me cause to doubt his loyalty again. He is one of the brightest and keenest men that we have in here, but is an all around, high class yeggman, and knows this class of men all over the world. He is an exceedingly interesting character.

3. Classification

We cannot handle isolated facts; our minds inevitably group and classify cases according to their resemblances. No two leaves are exactly alike, but we know oak leaves from rose leaves; no two horses are precisely alike, but we know any horse from any elephant; no two criminals are the same in appearance and character, but those who belong to one class can be recognized as similar to each other and as distinguished from others.

Provisionally we may classify the offenders which have been brought to our notice in three ways, each method of grouping being particularly useful for a different purpose: (1) by the degree of criminality, the mark sought by a court in fixing a sentence, the judicial classification; (2) the types of offenders are noted by the administrators of prisons and by parole officers, since every man must be placed in relation to others in the workshops and cells; (3) for the scientific mind, eager to trace back effects to their origin and causes, and to the social worker intent upon drying up the

swamps which breed malaria, offenders are best classified by their nature and their disposition toward social order. But all these points of view should be considered by court, jury, warden, and social worker, and all have a scientific interest.

(a). Classification by degree of criminality, and its use in judicial procedure.—

The traditional criminal law which governs courts looks chiefly to the action, the crime itself, and requires evidence that the person charged with the offense did actually commit it. The act cannot be judged apart from the doer; and the deed reveals the character of the offender. But even if the actions are the same the evidence may show that the offenders differ in nature and should have different treatment. The punishment should not only fit the crime but also the criminal.

Without multiplying and refining distinctions, we may, for practical purposes, classify accused persons as: (a) Offenders who are not at all criminal in character. Men of upright life and noble aims do wrong, in haste, in anger, in mental confusion, under severe and unexpected temptation. (b) Offenders whose

criminality is real but superficial. (c) Offenders who are true criminals; whose anti-social disposition is deep in nature and habit. Of these true criminals there are two widely different types; the "degenerates," weaklings, drunkards, and the like, who cannot do any work steadily and so become vagabonds and dangerous; and the small but most dangerous class of professional criminals, largely skilful burglars, who sometimes get off with rather short sentences. (R. Anderson, *Criminals and Crime.*) Professional criminals are not merely "habitual," but follow crime as a trade, as the business of their lives, "who calculate and accept its risks, who have entirely ceased to work, if they ever did work, and who never mean to do so."

The classification by Garofalo deserves attention. According to this distinguished jurist, a distinction should be made between natural crime and merely acts of disobedience or police offenses. The latter are not true crimes. "Natural crimes are such acts as offend the sentiment of humanity or violate the rules of conduct exacted by the common or average probity of present day civilized peo-

ples." He classifies the true criminals as murderers, violent criminals, criminals deficient in probity, and lascivious criminals. The murderers are persons who take the life of a human being in such a way as to reveal an anti-social disposition, as when they inflict physical torture and act with selfish ends and without provocation. Special forms of treatment should be given to women, to aged persons, children and adolescents, hypnotized persons, drunkards, and criminal monomaniacs.

(b) Classification by Types.—When offenders are convicted, they must either be let off with a reprimand or fine, or placed under probation officers, or sent to the most suitable institution, and in the institution must be placed in some group. Hence, for administration, the necessity for distinction of types.

The classifications by age and by sex are now admitted to be necessary, though neglected in benighted and backward communities; and therefore we have graded and specialized institutions — parental, industrial, and reform schools, reformatories and prisons, for persons of both sexes. The insane must have separate quarters from the others; Massachusetts re-

quires the "defective delinquents" to be placed apart; and in prisons men are classified according to conduct and grouped according to the requirements of discipline.

4. Criminal Statistics

To those who are impatient of accuracy all statistics are vicious and detestable; but without them we lose our way. Unfortunately, the dislike of thoroughness in public business is so general in our country that many of our statistics of crime are ridiculous and disappointing. One of the first duties of good citizens is to urge legislators, judges, wardens, and prosecutors to provide records on which scientific studies can be based. The American Institute of Criminal Law and Criminology* has worked out forms for such records and is trying to secure legislation in the various states requiring courts and county officers to report the facts to a central state office for tabulation. Only when this is done can the federal census officials gather up and present the judicial statistics of the nation.

* Address the Secretary, 31 West Lake Street, Chicago, Ill.

We also need uniform and complete records of all prisoners in jails, reformatories, and penitentiaries as the basis of prison statistics. Sheriffs and chiefs of police should be required to keep their records, including not only arrests and convictions but also all instances of undetected crimes which come to their knowledge.

CHAPTER II

Criminal Nature and Causes of Crime

GROSS misconceptions prevail with respect to crime and criminals. Some regard the criminal as a natural product who may be pitied but cannot be condemned for his crime. Others say that the criminal is a sub-normal person and treat crime as a disease. Still others ignore physical conditions and regard all crime as a matter of choice and preference. What are the facts in the case?

1. Crime Defined

Crime Is Not a Disease of the Body.— There is no physical "germ" which causes crime as the tubercle bacillus causes tuberculosis, and other specific micro-organisms cause typhoid fever and venereal diseases.

Crime Is Not Insanity.— If a harmful action is done by one who is proved to be insane he is sent to the hospital, not to prison, or to the gallows.

But unfavorable bodily conditions are among the causes of true crimes, and very frequently even physicians and brain specialists are perplexed to decide whether a given offender is insane or not. There are multitudes of "borderland" cases. Alcohol and certain drugs frequently incite to isolated acts of crime, while habitual inebriety will often change an honest man into a liar.

Crime in the true and exact sense is the deed of a responsible person.—A child is not yet mature; an idiot never knows enough to be responsible; one who becomes insane becomes legally and morally irresponsible. But who can be quite sure where the doubtful cases belong?

For these reasons a consideration of bodily disease and defect must be taken up for the mastery of the problems of crime; and at every stage of treatment—arrest, court procedure, place and kind of punishment—we must keep bodily conditions in mind, if we wish to be just and make our measures humane and effective. But none of these facts disturbs the principle here affirmed: crime is a responsible act, not a disease.

2. Scientific Study of Offenders

For many years men of the widest experience and knowledge have urged upon the public authorities the importance of learning more about the nature and peculiarities of delinquents. Diagnosis must precede successful treatment. Perhaps no one has done more to impress this idea upon the world than Lombroso; and we can say this while we reject his principal conclusions and generalizations and seek to improve his methods. He was a pioneer. Volumes of studies have been published and a Congress of Criminal Anthropology has been organized. The American Prison Association (1900) received a report on the subject, a report prepared by the writer* and approved by Mr. Z. R. Brockway and Mr. R. W. McClaughry, eminent prison leaders, members of the committee.

Introduction to *The Study of the Defendant, Defective, and Delinquent Classes* (1901), page 230 *ff.*

The Bureau of Social Hygiene, established by Mr. John D. Rockefeller, Jr., has recently established a laboratory of this kind of scientific investigation at the New York State Reformatory for Women, at Bedford.

The Survey, May 18, 1912, p. 285.

The idea was already advocated by the American Institute of Criminal Law and Criminology, and beginnings

The Bureau of Social Hygiene provides for three departments of the laboratory, psychology, sociology, and nervous pathology, with a specialist in charge of each department. It is impossible for any one person to be a master of all these fields of science or to fix attention at the same time upon the mental mechanism, the disturbances of the nervous system, and the influence of social contacts and relations upon the delinquent. By division of labor and cooperation knowledge and wisdom will be advanced.

Unquestionably this kind of study will be introduced into all courts and correctional institutions in due time.

A crime is a free act of a responsible human being. The lightning may kill a man, but electricity never committed murder. The flood may invade a dwelling and destroy it, but cannot commit burglary. The idiot, the insane may be very dangerous to prosperity, order, peace, virtue, but they are incapable of crime

made by Dr. W. T. Healy in the Juvenile Court, Chicago. Dr. A. MacDonald has long urged Congress to establish a national laboratory. The American Association of Clinical Criminology has been formed to promote such studies.

and unfit for punishment. A mere baby can set fire to a house, but is not indicted for arson. Crime is the privilege of mature personality, of intelligence, of freedom.

Is the young person, the adolescent, in the transition from childhood to manhood, capable of crime? Where does responsibility begin? Are there degrees of responsibility? These are questions of great practical importance in individual instances, which we shall consider when we deal with youth in relation to crime.

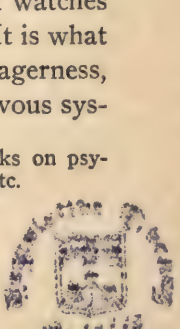
We cannot insist too strongly on the necessity of care, of scientific and expert study of persons charged with unnatural crime, youth or adult, in order that the right verdict shall be rendered, the reasonable and just sentence imposed, and thorough measures be taken for social protection. This deliberate and cautious weighing of evidence should not lead to discharge of the irresponsible person, but to restraint, medical treatment, and safeguarding of the community. An irresponsible person should never be let loose in a society of rational beings, but should stay with his kind and be kept from harming others.

Crime, by repetition, becomes habit,* a second nature. The training of horses, oxen, dogs, is just the setting up of desirable habits. A horse may become a habitual biter or kicker; a dog may become a sheep killer; a cat often becomes a sorry tramp. All nations have their proverbs which reveal popular wisdom in regard to habits.

The psychological principles relating to the establishment of a permanent disposition through habit are the following:

The nervous system is plastic, yet capable of retaining impressions. In response to outward stimuli and inward needs volition is put forth to obtain desirable objects. The way in which one wills to act repeatedly will be determined by his surroundings. In an honest man's family the children will be trained to secure food, clothes, comforts by useful work; while in Fagin's school of thieves the boys will be induced to snatch pocketbooks and watches and get away without being caught. It is what young persons do, with interest and eagerness, and repeatedly, which forms their nervous sys-

* See, on the formation of habits, the works on psychology by James, Dewey, Angell, Wundt, etc.



tem and marks out beaten paths which subsequent thoughts find it easiest to follow. We must use this metaphor of the beaten road with caution. "But the moment we recall the fact that the nervous system is a part of a living organism, in which processes of nutrition and repair are constantly going forward, and within which many intra-organic changes are producir.g from moment to moment relatively new conditions, we see the metaphor of the pathway in the meadow must be abandoned in favor of some idea in which the vital processes of the organism are recognized and the living tissues treated as something other than so much static, plastic clay, which the accidents of the external world can mould to their own exclusive purposes." (Angell, *Psychology,* p. 37.) This constant change in the nervous system makes the formation of new habits, within certain limits, possible; so that we can speak of "re-education" of the insane and "reformatory education" of delinquents. The bad habit is indeed the worst obstacle to good character; but when vigorous, persistent, repeated right actions have been long kept up, their effects are the support of the will under strong temptation.

3. Character of Criminals

The Influence of a Social Group on Forming a Criminal Character. — A man is known by the company he chooses. Long before the man selects his associations his surroundings may have made a choice for him. This poor widow with five children never voted to place a saloon or a brothel in a residence district; but, being poor, she must take rooms in a district where rents are low, and there are saloons and brothels. Her children are reared in a neighborhood where modesty is frostbitten, purity mocked, honesty despised as weakness, public opinion favorable to bribery. Here crime is a natural product.

One of a gang of young murderers on trial for his life confessed his share in the horrible deed. The attorney asked him: "What led you to consent to be one of the party, since you say it was not your desire for money or love of adventure which prompted you?" Answer: "It was R's pleas to me to be game and stick with the bunch which influenced me, even after I had expressed the desire not to go," replied the prisoner, in a low voice.

"Were you intoxicated?" "Yes, sir. I realized the wrong I was doing, but I had had so much to drink that I lost control of my will and was too weak to resist the others when urged."

Worthy public opinion nerves a noble man to his best effort; but there is another kind of public opinion in wide circles of the underworld which drives a weak person, especially if in drink, to criminal action.

Characteristics of the Anarchist Criminal. — In the following illustration we see combined in one depraved and detestable personality several of the anti-social traits which reveal the sinister possibilities of human nature — egoism, insatiable thirst for notoriety without reference to the character of the public attention, ruthless disregard for life and property, insensibility to the suffering of others. In April, 1912, some anarchist robbers were hunted down and caught in a building not far from Paris, and at last killed by the police after a regular battle. In his last hour one of them, Bonnot, composed hastily a kind of will in which he wrote, on paper splashed with blood and dust:

"I am a celebrated man; the renown of my name is trumpeted to the four quarters of the world, and the publicity of the press has so raised my humble person into attention as to render jealous all those who take so much pains to make people talk of them and who do not attain their wish." . . . After a long diatribe against society and an exposition of his anarchistic theories, he continues: "Should I regret what I have done? Yes . . . perhaps . . . but if I must continue, in spite of my regrets, I shall continue. Perhaps I was wrong; it is too late to find fault; I must push to the end. . . . I must live my life; I have a right to live; every human being has the right to live; and since your imbecile and criminal society pretends to forbid me; very well —so much the worse for it! So much the worse for all! Jules Bonnot." (*Le Petit Journal,* Paris, April 29, 1912.) A powerful and tragic illustration is this of the logic of an anti-social habit of thought and conduct; after a certain stage retreat is impossible; the wild beast must go on, and society must exterminate him in self-defense. But could not society have made a human being of this mis-

guided savage, if it had begun in time, with the child or the youth?

4. Causes of Crime

(a) Causes of Crime External to the Criminal. — It can be made morally certain by the study of history, statistics, and local surroundings that an unfavorable situation increases crime, or modifies its expression.

Natural forces, as climate, seasons, storms, and electrical changes, are known to affect crime, directly or indirectly. Intense heat or extreme cold may unbalance an unstable nature, and each season offers peculiar temptations. But the natural conditions are regular and for the most part beyond human control.

The artificial physical arrangements of human construction are more subject to our will; as unwholesome dwellings, workplaces, streets.

We must take account of inherited defect: as weakness, arrested development of the brain, deformity, epilepsy, tendency to alcoholism, sexual excess, etc. The causes which produced these abnormal conditions were set up without

the volition of the victim, often before he is born.

(b) Causes of Crime in the Person Himself. —Each person begins with his inherited powers and qualities and forms his character by his conduct. Each act or thought becomes an influence affecting all that follows. The youth may acquire the habit of irritability, dishonesty, lust, laziness, by indulgence, by failure to control himself, by repetition and habit, as already explained. The immediate cause of a true crime is an evil personal choice, the act of a morally depraved will.

The external conditions and also the organic impulses of natural appetites and desires are common to all human beings, to law-abiding citizens and to moral monsters. Multitudes of persons have precisely the same environment and outward temptations as criminals, and yet do not fall. The difference must be something peculiar in the criminal himself. This peculiarity has been called "moral depravity," a selfish disposition, and is often accompanied by a narrow and perverted judgment and a confused vision of the relation of acts and consequences. The criminal is a weak man;

generally he is defective in his body, in intellect, and will, at least in some point.

As the popular ideas about criminals are very confused and often totally wrong, some evidence must be presented, in addition to the individual cases described, to illustrate the various aspects of criminality.

Mr. Z. R. Brockway, who has no superior in the understanding of criminals, declared: *"It cannot too often be stated that prisoners are of inferior class, and that our prison system is intended for treatment of defectives.* Passing now the somatic, psychic, and other anthropological data at hand in support of the above statement; premising that the defectiveness is of the bodily substance and form, in the mental capacity and its irregularity, and in emotional perversity, the aggregate of which in any large company of miscellaneous prisoners is always in excess of the defectiveness of the same number of free inhabitants; the inferiority of prisoners may, for the present convenience, be generalized under three divisions, as follows: (1) Those who, in childhood and adolescence, are apparently normal, but, closely scanned, reveal peculiarities which, resulting in pernicious hab-

its and crimes, develop later into some phase and degree of dementia. (2) Those clearly defective, but with considerable mental power preserved. The mental defect is specific, in some particular, such as the logical faculty. For instance, they are unable to master arithmetical examples which others of similar general intelligence easily grasp; they are deficient in judgment rather than depraved. At every trying crisis of life they are sure 'to go wrong.' (3) Those possessed of all the usual faculties except the regulative one, which is out of gear, not absent but disconnected and unavailable. Viewed *en masse,* prisoners are characterless; they lack positiveness, are without an inward, dominant purpose. They are unduly influenced by instant, trivial circumstances or by hidden transient impulses. The most dangerous, therefore interesting, sane young prisoner I have ever known, abnormally cunning, well illustrates this ungeared characteristic. He said, 'I know, sometimes, I am what you call good, and then again bad. In my good moods I am ashamed that I was ever bad; and equally in the bad mood I am ashamed of ever being good.'

This alternate self-disapprobation had no content of intellectual stability or moral responsibility. Although he was only eighteen years old, he was by heredity and habit a confirmed and desperate criminal. Fortunately, he died while imprisoned." (*Prison Reform,* pp. 95-7.)

5. *Crimes of the Respectable and the Strong*

If we measure the heinousness of crimes by their injury to society, then the wrong done by thieves and burglars is small compared with that done by able men who may occupy a notorious if not honored position in the nation. Shakespeare long ago noticed this.

> Through tatter'd clothes small vices do appear;
> Robes and furr'd gowns hide all. Plate sin with gold,
> And the strong lance of justice hurtless breaks;
> Arm it in rags, a pigmy's straw doth pierce it.
>
> —*King Lear,* IV, 6.

> In the corrupted currents of this world,
> Offence's gilded hand may shove by justice;
> And oft 'tis seen the wicked prize itself
> Buys out the law.
>
> —*Hamlet,* III, 3.

Innocent men are often made the catspaws of their superiors and suffer without conscious complicity in guilt; more often the subordinate is corrupted by his employers and becomes a moral partner in the crime. Examples are only too numerous: bankers who disobey the law relating to reserves; merchants, investors, capitalists who violate assessment laws to evade their just share of tax burdens.

The examples just given are of actual transgressions of statutes. There are many very hurtful anti-social, injurious, and oppressive actions which are not yet technically and legally "crimes" because the legislature has not specifically condemned them by statute, although they are clearly antagonistic to the spirit and intention of law. Robbing stockholders by "watering" and otherwise manipulating stocks of corporations by the directors may cause unspeakable misery and ruin, but not be contrary to any statute. The stories of monstrous injustice for which no legal remedy is found are part of the material for tragedy. The steamship *Titanic,* it is claimed, had all the life-saving apparatus required by law, yet the managers knew that in an accident the majority

of those on board must go down to death. There are various causes for the existence of crimes of the respectable: corruption of legislators and (rarely) of judges; conspiracies to "sandbag" business men in organizing new enterprises requiring legislative action; corruption of public opinion, as where a newspaper is managed for the purpose of deceiving the plain people and inducing them to vote against their own interest; the base greed of a certain class of so-called lawyers who may be found ready to promote injustice for a fee. There are laws, as our "general property" tax laws, which lay a heavy burden on the conscientious and reward the unscrupulous.

In an article in *The Outlook*,* we have the story of an attorney who was talking with a convict whom he had successfully prosecuted for bribery. The prisoner turns upon the gentleman, who had once been lawyer for a dishonest corporation: "You did your work in legal phrase and I handled money. . . . And after all *your* crooked business you get so damned righteous and come after *us!*" The

* March 23, 1912, p. 640, *Glass Houses*, by James Oppenheimer.

lawyer's eyes were opened, and he confessed: "Was it not just this that ailed my Nation? Every one struggling for himself, a city full of animals tearing and biting each other to get on top? . . . Then I saw at last. We are all guilty. Only we call our own thing *business,* and the other fellow's *graft.*"

No one has a right to charge any successful man or corporation with wrong unless he has proof, and a great deal of "muck raking" is doubtless a mere compound of envy, reckless desire for sensation, spite, and an eagerness to print a selling article for cash; but there are other criticisms which rest on legal evidence and cannot be set aside. Elizabeth Gibson Cheyne, wife of the eminent Biblical scholar, has a poem in which she describes the desperation of a wretched, poor mother, neglected by society, taunted for her poverty as if it were the result of her laziness or unthrift, broken-hearted for her children starved to death in sight of abundance, saying to her employer, in a dream:

My dead children are crying to me to kill you,
And my living children are crying to me to forgive you,
And I have not yet decided which to do.

6. Crime as an Injury to Community Interests

Moral conduct is that habit or course of action which furthers the essential interests of mankind, physical, economic, and spiritual. Crime is a form of activity of anti-social and responsible persons which has for (1) its effect a serious injury to the *physical* integrity, energy, efficiency, longevity, health of citizens; or (2) which unjustly and unlawfully deprives citizens of income, whether in the form of wages for labor, interest on invested capital, rent, profits, or of private property itself; or (3) which maliciously reduces the enjoyment of science, art, fellowship, worship; or (4) which, by interfering with government, diminishes the safeguards of order, liberty, security of person and property, peace, justice, and equal opportunity. Accordingly, the statutes classify crimes as offenses against person, property, morality, reputation, character, public health, order, justice, and government.

CHAPTER III

Social Reactions Against Crime and Criminals

HAVING indicated the nature of criminality and the development of the anti-social character, we arrive at the manipulations of the protective impulses of individuals and of communities — resentment, revenge, punishment.

1. Origins of Resentment

Even in the world of plants we discover manifestations of irritability and resistance to forces which endanger life. Animals of advanced nervous organization instinctively protect themselves and their young from their enemies. Fear, anger, and rudimentary revenge are illustrated by observers of these beings of lower intelligence. These instincts, which have their roots in the chemical and physical constitution of living matter, are useful for the preservation of the individual

and the race, and so are transmitted and perpetuated.

Pain is associated in memory with the appearance of certain forms, and fear anticipates the danger by withdrawal or concealment, while animals conscious of power are aggressive and bold to meet assaults with force or take reprisals. In the higher animals, as birds, cattle, horses, measures of defense and protection become socialized. The individual human being belongs to the organic world, and is endowed by nature with fear, resentment, and courage to fight his foes and maintain his place. Revenge is the brooding memory of resentment, a more permanent state of anger, and not a mere momentary explosion of self-protecting indignation or passion.

So far as evidence goes human individuals were never left quite alone to protect themselves or to avenge their wrongs. In all the most ancient and most simple contemporary societies the group has some interest in the reaction—the family, the clan, the tribe. Rarely, if ever, was man solitary. Thus, we read in the earliest documents of the Old Testament, if a man was injured his clan or tribe

defended or avenged him; if he committed a crime his whole family might be put to death with him (See the story of Achan, *Joshua,* ch. 7).

The individual, as fighter or worker, had value to the ancient group, and his death might be a serious damage. Therefore, perhaps, it was early felt that revenge should be bridled, and measures were taken to discipline passion. Thus Israel erected "cities of refuge" for manslayers, where at least the involuntary homicide might be safe till the "avenger" of the injured family had time to cool his blood.

The custom of "compensation" for injury (*wergeld* of our Teutonic ancestors) was a device for salving the smart of a wrong. The community set a price upon each injury, according to the rank of the person offended and the extent of the damage, and the quarrel was settled by giving and accepting *wergeld.* The injury was still regarded as personal, and the compensation was paid to a person; but the community interfered to regulate the torrent of resentment so that it should not pass the boundaries of community welfare. The tribe needed all its resources for war and work.

This interference of the group in the quarrels of individuals was progress, for it restrained individual feeling, which tended to excess. But in addition to these personal wrongs ("torts") other offenses against the whole community were punished without possibility of settlement by compensation.

In modern nations the injury has come to have two aspects, civil and criminal, private and public.

Thus if a merchant defraud another by means of a forged signature to a check or deed, the injured party may recover his property by civil action. But that is not the end of the matter; for the public has an interest, and the prosecutor, in the name of the State, brings the offender against the peace and order of society to judgment and he is punished. The payment of stolen money does not change the nature of the crime nor acquit the culprit.

At this point we leave the civil and private action and consider only the public offense which society cannot pass over without marks of its disapproval and its purpose to repress anti-social action. This leads us to consider "punishment."

2. Modern Punishment, Its Theory

There are numerous theories of punishment, some of them stated in language so obscure as to hide even the ideas of the writers, if they have any clear ideas.

(a).—What is actually the purpose of the people in commanding, through law, the punishment of offenders? Punishment is the modern equivalent of the ancient reaction against an offender. Every one of us, even the black-robed judge in the Supreme Court, is human, an inheritor of all the elemental instincts of the race. We are all moved to anger, resentment, and revenge, even when we are not conscious of the deep and hidden springs of our action. With education we may analyze our motives more clearly, we may understand their biological origin more fully, and we may hold them under firm control; but insult, blows, robbery, and murder stir the impulses which are as ancient as animal life on this planet. Personal fear, for our own bodies, our families, our property, our neighbors, enters into this complex demand for punishment.

With advanced culture and training, more

rational and social ends become factors in the deliberate purpose of punishment. "Retribution" aims at a just measure of penalty, and would limit the pain to what is regarded as just, fair, due, reasonable. All this looks to righting a past wrong. Crime implies a debt to be paid; it is the very conception of "compensation," and this idea is never wholly false.

Gradually, however, men have come to see that society must so deal with actual offenders as to create in tempted men a wholesome fear of yielding to their impulses; this is sometimes called "general prevention." Anti-social action must be made undesirable by attaching to illicit gratification the dread of deprivation and pain, which will be inhibitory when men are balancing the chances before making a choice. Deterrence is one aspect of the social purpose of punishment.

"Special prevention" means the use of fear of penalty to prevent the offender himself from repeating his crime. A person who has done an anti-social act reveals some degree of dangerous disposition, which must be changed, if we are not to have hereafter a public enemy.

Reformation may be sought as a means of social protection.

There are some jurists who deny that "penalty" aims at reformation. These writers, some of the greatest lawyers, declare that punishment has for its sole purpose to "vindicate justice," to "uphold the majesty of the law," to "restore equilibrium between righteousness and injustice"; that a penalty looks solely to the past action and is purely retributive, and has no relation to the future. It belongs to this conception of justice to declare a man free when he has "paid his debt to justice," no matter how depraved and dangerous he may remain after serving his term in prison. Few writers in our day would hold to the retributive theory in this extreme form.

Some recent writers would have a "supplementary" penalty to be imposed on professional and dangerous criminals after the retributory penalty has been served, not to punish but to reform, or to detain one who is incorrigible, and whose being at large constitutes a danger to society.

(b) Is Punishment Effective? — Doubts exist as to the value of punishment as a deterrent.

There are men of large experience who warn us against depending, in any great degree, upon fear of punishment to prevent crime. They believe that the police and lawyers overestimate the effect of fear on the criminal mind; and they cite the vast number of convicts who have been sent to prison many times and yet commit crimes as soon as they find a chance after release. They tell us that in the underworld it is glory to be arrested and "do time," and that the sense of social shame does not exist in this region.

Thus Mr. Z. R. Brockway, a veteran administrator of prisons and a profound thinker as well as keen and practiced observer, says: "Little reliance is placed in the deterrent principle alone for restraint of crimes or regulation of the conduct and character of offenders. No doubt the experience of pain and pleasure possesses a certain educational value, teaching what is profitable and the reverse; but fear is at best the beginning of wisdom, and fear always evidences and usually effects a reduced and inconstant mental condition. . . . Strong and virtuous characters . . . do not need and are rarely conscious of amenability to existing

penal laws; weak characters easily get themselves stranded; the habitually wayward are unmindful and disregardful of legal penalties; and the small ratio of all the criminals included in the class of deliberate and professional offenders brave penalties and derive zest therefrom. . . . The bulk of prisoners consists of those who are weak, habitually wayward, and unreflective persons, who do not really connect in consciousness a present infelicitous experience with its remoter cause and consequence. . . . Among the many thousands of this inconsiderate class of prisoners that I have investigated, none is now recalled to memory who, antecedent to his crime, took serious account of the possible consequences. . . . Such men are no more hindered from crime by the liability to be imprisoned than railroad travelers are hindered from traveling because there are occasionally fatal railroad accidents.

"Ineffective, too, for deterrence, is the supposed disgrace of a criminal conviction and committal to prison. The generality of prisoners do not feel any disgrace. . . . Even a color of the heroic tinges the habitué who has actually 'done time.'"

This is not an absolute denial of the value of fear in punishment; it certainly has some effect. Nor do we deny that society ought to express its moral disapprobation of criminal actions by the sanction of public condemnation. Even in the best ordered families, where affection is supreme, the parents cannot permit the children to think they are indifferent to moral distinctions. Pain, loss, condemnation are the universally recognized marks of such moral discrimination. Perhaps this is the idea which lies at the basis of the doctrine of punishment, retribution, expiation of the "classical school," where it is not simply ancient revenge masquerading in unintelligible metaphysical terminology, words being used rather to conceal thought than to reveal it. That even young offenders may need sharp and painful treatment to make them quit laughing at sermons, there can be no doubt. The sanction of a sharp cutting lash may at times be necessary.

3. The Forms of Punishment

The modern legislature may place at the disposition of the courts a choice between various forms of treatment, because the offenses vary

in enormity and injury, and the offenders are by no means all alike in age, character, degree of responsibility, and dangerousness (*témibilité*).

In former ages the modes of punishment were far more numerous and varied than they are in our day: human ingenuity was exerted to the utmost stretch of imagination to invent forms of humiliation, torment, and death. The Folterkammer at Nuremberg is a museum of the instruments of punishment which were once approved by the best statesmen, but would not be accepted now even on the frontier of civilization. In this country the legally permissible penalties are reduced to fines, placing on probation without incarceration, imprisonment for a period or for life (with parole), and (rarely) death. Ingenuity is now set to work full time on the invention of methods of education, reformation, and prevention, rather than of torture.

4. The Measure of Punishment

It was an achievement of rational justice, even in ancient times, to discover that punishment should be limited by law, and not left to

the private revenge of the injured party made furious by his hurt and wrong, nor even to the arbitrary will of king, judge, or administrator. Under the Teutonic system the "compensation" *(wergeld)* was measured roughly by unwritten or written law. It was not arbitrary and personal, but rational and public.

In modern times the measure of the maximum fine or term of imprisonment has been fixed by representatives of the people, and so removed from the control of judges and administrators of prisons. The convict is a citizen, even if a bad one, and retains certain rights which the state respects.

But this legislative method of fixing the amount of punishment was always somewhat flexible; the court could exercise considerable discretion between the minimum and maximum named in the law, and judges used this discretion so as to adjust the penalty somewhat to the crime and the convict. The law also gave to the governor in some cases the right to pardon, reprieve, or commute the sentence, a very dangerous but necessary power. Furthermore, of recent years, the conduct of the prisoner has been taken into account; to encourage good

conduct the prison authorities have been given the right to shorten the longer terms of imprisonment as a reward for obedience to the rules of the prison. Later, in several countries, "conditional liberation" was introduced for the same purpose, and the "parole system," especially in the United States.

All these modifications prove that legislators have found they could not provide under one absolutely rigid law of iron for the infinite variety of cases, and that some range of discrimination was necessary.

Another discovery has been made: that legislatures have never been able to agree on any principle of measurement of justice. The law-making bodies of different countries impose fines and terms of imprisonment which vary widely in severity. The human mind has no standard for weighing guilt and ill-desert. These contradictions are especially flagrant in this country where we have forty-seven sovereign states making codes of crime and penalties, no two of which are alike, and many so widely apart as to demonstrate the absence of any reasonable ground for measuring ill-desert.

When we study the sentences imposed by

learned judges, we discover that they differ as widely as the legislators and can give no reason for their differences, except a vague feeling that one deed deserves longer pain than another, or that one offender is more guilty than another, both of which are hard to prove.

Still another discovery has become common property: the life under observation in the prison gives to the state further insight into the character of the convict. In the trial many important facts about a defendant must be excluded by the rules of evidence and procedure; in the prison little can be hidden from the administrators. By general consent this new body of knowledge ought to have some weight with the state authorities in their treatment of the offender. If the prison is required to use reformatory methods, it must have the legal power to reward good conduct and penalize bad conduct, according to the disposition of the prisoner.

Another discovery of experience has become public property and matter of common knowledge: many young offenders should never be imprisoned at all, and many old and dangerous criminals should never be permitted to be free,

at least without some measure of supervision and control.

Reformation of the Offender as the Measure of Penalty. — It has been claimed by some writers that we can find in the reformation of the convict the limit of the penalty; that the full purpose of punishment is attained when the offender gives proof that he will adjust his actions to the requirements of order, peace, and social security. In this way, it is said, he measures his own penalty — in prison by good works, outside of prison by steady industry and proper associations under the eye of the parole officers.

Certainly this view contains a vital truth. The discipline of the reformatory process is deterrent, in the general and special sense of the word. The moral demands of justice seem to be met by the deprivation of liberty. Those who show themselves to be still incorrigible and dangerous may be retained indefinitely either under a so-called "indeterminate sentence" or under a "supplementary penalty" pronounced by a tribunal at the expiration of a fixed sentence.

In any case the reformation of the individual

convict is only one of the ends of justice, important as it is, and to be sought by all possible means.

Some offenders, probably few, do not need reformation, yet ought to be punished. They are not likely to repeat their offense, yet it would be a bad example to let them go scot-free.

At the other extreme are the incorrigible offenders. Should they be released where the most patient and prolonged efforts at individual reformation have failed?

5. Records and Statistics of Efficiency

Business men and manufacturers would go bankrupt if they did not keep careful and exact accounts of all sources of income, all wastes, all expenditures, and so of the efficiency of each department and each employee.

The state has yet to learn to keep scientific records of the working and effects of its laws and administration. In the absence of full and reliable statistics, the air is full of wild guesses and vibrant with positive though groundless assertions. The first step in progress is to con-

fess our ignorance and work hard for obligatory central state records of all courts, police, prisons, and undetected crimes. After a series of years we could know what our laws actually accomplish and why they fail.

We need to multiply life histories of persons who have passed through our public and reform schools, our reformatories and prisons, without benefit and have with each arrest grown worse. These records should cover not merely six months or a year after discharge from prison, but, at least in serious cases of vicious character, several years of report and observation.

Restitution or Compensation to the Victim of Crimes Against Property. — There is a crying injustice to which honorable lawyers and business men ought to give more attention. Under our present law and its administration, in accordance with a sort of legal fiction, the prosecution of thief, burglar, or cheat is on behalf of the state. The victim is required to spend time and money in aiding the detection, prosecution, and conviction of the law-breaker; but the criminal can leave his estate or his money in the hands of some partner and find

them intact when he comes out; the victim suffers the loss and is not regarded in the criminal procedure. It is true the wronged party may institute a suit for recovery of his goods, but that is a private matter and he must pay the cost.

If thieves and knaves were required to pay back their plunder we might reduce their number. If they have property it should be taken by the commonwealth and administered in the interest of those who have been defrauded or robbed. So long as an offender has any earning power in his body or brain, he should be required to labor at some kind of productive work until he had made full compensation. This should be a part of the "punishment" and of the administration of public justice, for it would be one of the most effective methods of breaking up the ranks of the professional criminals.

In the case of the men on probation for first offenses this course is already pursued in some places and with good results. The offender is released, under charge of a probation officer, on condition that he work and pay part of his wages to the victim of his misdeed, while he

supports himself and family at his ordinary occupation where his skill wins the highest possible returns.

This could be carried much farther; and, when the conditionally discharged offender cannot find remunerative employment, the state should give him work on roads, under foremen. If he refused to do his work and ran away, he might be put behind the bars and compelled to join the regular convicts in the shops.

CHAPTER IV

Methods of Criminal Procedure

THE public ought to give heed to the processes by which persons accused of crime are arrested, indicted, tried, and condemned or released. It ought to know also how far these processes are preventive and deterrent, and how far they affect men for evil and accentuate anti-social impulses.

1. Judicial Procedure

Legal procedure means "the modes of conduct of litigation and judicial business, as distinguished from that branch of the law which gives or defines rights. It includes practice, pleading, and evidence" *(Century Dictionary)*. Criminal procedure differs from that in civil cases.

We must refer readers to the text-books on criminal procedure for an account of the various topics: arrest, commitment, accusation, the grand jury, arraignment and pleading,

trial and verdict, *nolle prosequi* and quashing, sentence, pardon, indictment, double jeopardy, evidence, burden of proof, testimony, confessions, etc. (J. W. May, *The Law of Crimes;* Clark, *Criminal Procedure;* Beale, *Cases on Criminal Law,* and others.)

Great and just complaint is made against the technicalities and delays involved in the present-day methods of courts, on the ground that the public defense is weakened, needless cost imposed upon the public, and criminals encouraged. In partial explanation and justification the layman should understand that procedure was developed as a weapon of defense against rash and arbitrary judgments of free citizens. When once a custom, which is a kind of social habit, is well fixed, it is difficult to change even when the original reasons for the custom no longer exist and changed conditions call for modification. The members of all professions get into ruts and must sometimes be rudely lifted out of them by outsiders who are put to cost and inconvenience by idolatry of ancient forms.

The final reform must take shape in the hands of the lawyers and judges who alone

have the professional knowledge to direct the changes. For this very reason the members of the bar have a heavy responsibility to the nation, and there are encouraging evidences that many of them are awakened to a sense of their duty.

From the standpoint of criminal anthropology and penology, one of the most urgent modifications demanded by modern science is that of a provision for revising the sentence from time to time under judicial direction. When an offender is convicted of a crime, very little may be known of his real character, and much of the necessary information is actually excluded under the technical rules of evidence. Furthermore, the conviction and incarceration themselves offer a crisis and test of character, and reveal the inmost nature of the convict. The discipline of the reformatory has an educational, or, sometimes, a hardening effect, according to the disposition of the man; and in some months or years the nature is modified, it may be profoundly changed. The sentence pronounced by a court must of necessity take into account chiefly the state of mind at the moment when the unlawful act was committed, and this

state of mind may not be wholly characteristic of the man.

It would appear to be wise, therefore, after a certain period of punishment, when the ends of social protection have been adequately served, to reconsider the case in all its bearings. Such a revision may result in a conditional release on parole, with careful watch-care, or in prolonged incarceration, as under the British crimes prevention act, in order to protect society against a dangerous criminal. The constitution of such a judicial commission is considered under the head of the parole system.

2. The Police

It is the primary social function of the police and constabulary to prevent crime; although that is not the popular conception of their duty, nor the view which they apparently take.

They frequently call themselves, and with pride and satisfaction, "thief catchers," but this is a secondary task; the first is to help society prevent the beginnings and growth of theft and other offenses. A change in the mental attitude of policemen must be wrought

by enlightened public opinion, by law, and by instructions from state, county, and municipal authorities. Policemen are drilled like soldiers, they have the virtues of soldiers, obedience to orders and courage to risk life at the post of duty. They are also exposed to the peculiar temptations of men who come in contact with depraved citizens who have no scruples about using bribery to purchase immunity. It is the duty of policemen to discover plots and acts of crime, to collect evidence for conviction, and to bring the culprits before the bar of justice. The methods of carrying out the law are stated in the law itself, and in municipal regulations and orders.

Arrest and incarceration are not the only methods of bringing men into court, and they have frequently been used beyond all bounds of reason. Where an honest citizen, clerk, business man, or mechanic has apparently trespassed against some minor convention of the city, and is morally certain to appear in court to face his accusers, he may be summoned without arresting him and dragging him to a lockup to be thrust in with vile wretches whose very breath and presence are

loathsome and degrading. Many young men are made criminal by police measures. The writer knows of cases where innocent boys have been roughly treated by burly policemen and confined with vagabonds for some boyish escapade, when the father could easily have been called by telephone to come and answer for his child.

Children and youth under nineteen years of age should not be arrested without manifest necessity, and the cases of such necessity might be greatly reduced in number by the adoption of a method which was recommended as early as 1526 by Juan Vives, the great Humanist, to the magistrates of Belgian cities. This method is simply the extension of the supervision of young persons from sixteen years to nineteen or twenty years of age, and the legal requirement that school authorities see that these minors are busy, either at school or in some regular and useful calling. The natural guardians of the young are not policemen, but parents, and attendance agents when parents are too weak or negligent to enforce their authority in the training of their still half-responsible children. No new legal principle

needs to be invented; already the measure proposed is law in some states between the ages of fourteen and sixteen. But the age at which crime most frequently begins is after sixteen, and is not yet included in our legal system of control.

In the matter of rural police the United States is behind many other countries. Vast tracts of country, with thousands of lonely and isolated homes, are left without protection. On the frontier the federal government has failed to organize mounted police and left the rude pioneers to their own devices, to personal fighting, to lynch law, and to companies of vigilants. The Canadian Dominion government went before the settlers and established regular police and simple courts and maintained order by the orderly processes of civilized society. In Spain life and property have been made secure through the maintenance of the national guard. On the continent of Europe it is customary to see the representatives of order whenever need may arise. The defect with us is serious. City policemen cannot go beyond municipal boundaries and the rural constabulary is undisciplined, feeble, and

unacquainted with the ways of criminals. Each state should have a well organized force of mounted men and detectives in plain clothes moving about from place to place ever on the track of dangerous and suspicious offenders.

3. Fines and the Probation System

It has long been felt that the prison should never be used for punishment save in the last resort. It is humiliating and lowers self-respect in offenders who are not already degraded and criminal in temper, and a record of even one day in prison makes it more difficult to secure employment and confidence. The tendency of incarceration is to make a sensitive person reckless of public opinion and to induce him to find companionship with those who are enemies of public welfare. Furthermore, during incarceration the income of the family of the prisoner is cut off; the innocent wife and children suffer for the sin of the husband and father, and they also fall in the esteem of their neighbors. The stain of having been only for a few hours a "jail bird" cannot be washed out.

To avoid imprisonment we have as alternatives conditional liberation on probation under the suspended sentence and the ancient penalty of the fine.

The probation system is not easy to administer properly. It is not mere indulgence and leniency. It is as truly a part of the system of justice and social protection as the grim prison. To produce its best and natural results it must be regulated by a wise law in which the whole procedure is carefully defined and the rights and duties of all parties are distinctly stated; this in order to protect individuals against caprice and changing humors, and the public against corrupt practices. The judges must themselves be men who are patient, humane, and in full sympathy with the reformatory and preventive purpose of the law, and they should be men learned in the law and recognized as leading men in the legal profession. Therefore the salaries must be high enough to secure capable men for this noble function, and partisan politics should be excluded from their choice. It would be best to have them appointed rather than elected.

The probation officers must be carefully

chosen from a civil service list and promoted for good conduct. The records must be carefully kept and returns made from all countries to a central state officer. The statistics will reveal success or failure and guide the way to improvements.

A state commission of experts should control all the work of the state. Perhaps we shall find it best to organize a single state board having full authority to administer the system of probation and of parole, so as to bring under a uniform plan all persons, in all the counties, who are under watch-care and discipline for offenses, but are not deprived of freedom. Some have proposed to name this a board of rehabilitation, or a commission on probation and parole. Such a central body should have among its members a lawyer with some judicial experience, a physician with psychological training, a person with experience in a prison or reformatory institution, and a representative of urban social service who knows the conditions of city life. A few examples will illustrate the work of probation.

A young man, twenty years old, stole a suit of clothes when he was without money and

without work. He pawned these clothes for five dollars; was arrested and pleaded guilty, and placed on probation. The office of probation secured employment for him, and he is now doing well and writes letters in which he expresses appreciation of the kindness which has saved him from vile contact with the inmates of the workhouse. (Case given me by Mr. John W. Houston, Chief Probation Officer, Chicago.)

Another case is that of a boy who had come from the country to the city, like thousands of others, to seek for work among strangers. His money was all spent and he had no place to sleep; his body cried for food. Opportunity offered for stealing an overcoat, which he took and pawned for twenty-five cents. Afterwards his conscience smote him and he called the police on the telephone, told them what he had done, and said he would wait at the corner till an officer came for him. He was arrested, brought before a judge, pleaded guilty, and was placed on probation. The probation officer arranged to have him sent back home, where he is doing well. In the "good old days" that boy would have been "pun-

ished" and ruined by being compelled to associate in prison with thieves.

The probation method affords an opportunity of studying the peculiarities of an offender without resorting to extreme measures, yet holds the suspected person under observation and control for social protection. A singular example is that of a nice appearing colored woman, thirty-four years of age, working in a colored Gospel Mission, who could not resist the temptations of Christmas time, stole handkerchiefs and stockings from one of the department stores, and was placed on probation. The reports are very fair; the consciousness of being held responsible may gradually build honest roads in her brain and establish a permanent habit of inhibition of unlawful acts; and her religion may at last become moral, which does not always happen with even respectable and devout "criminaloids."

The method of dealing with a very serious case is illustrated in the following true story: X. was arrested for beating his wife while drunk; he had even stabbed her in several places with a small knife. He was sent to the

city workhouse and remained there about thirty days. His wife and children were so poor that his little boy went to the mayor, told his pitiful story of suffering, and asked the mayor to pardon his father. This was done. Soon he was arrested again for the same offense, and, while awaiting a jury trial, was in jail ten days. He was put on probation and seems to have a wholesome respect for the probation officer who visits the home once a week and keeps in close touch with the family. His wife reports that he is doing better than he ever did before, and that he has saved fifty dollars from his earnings, and the children are all now in school.

CHAPTER V

The Prison

DEPRIVATION of liberty is the classic penalty for crime in our time. It carries with it loss of position, separation from friends, forfeiture of enjoyments, irksome restraint, subjection to the will of others. It has the advantage of being capable of measurement in time and degree of restraint. On the whole, imprisonment must be regarded as an indispensable factor in a system of social protection and reformation.

*1. Development of Prison Reform**

In ancient times the prison played a subordinate rôle in the social treatment of offenders. So long as the community sought revenge, compensation for the party wronged, and elimination of the "undesirable citizen," the process was summary and the reformation

* Krohne, *Lehrbuch der Gefängniskunde.* F. H. Wines, *Punishment and Reformation.* E. C. Wines, *Prisons and Child Saving Institutions.*

of the offender was little considered. The prisons of the ancient world were small, dark, damp, deadly. Under the influence of Christianity they were improved; but still they remained chiefly mere places of detention awaiting trial or payment of fines or debts.

The medieval church did, indeed, introduce in the cells of its monasteries a kind of penitentiary discipline, with a view to securing amendment of character. But, on the other hand, it created the crime of heresy and demanded of the state brutal and painful tortures, even unto death, for those who persisted in dissent. Capital punishment was the classic penalty; but was often preceded by horrible penalties of mutilation, as cropping the ears, branding with a red hot iron, stretching the limbs, thumbscrews and racks, slow burning fires, gouging out the eyes, and countless more.

About the time of the Reformation of the sixteenth century, the nations of Europe were compelled to engage in a struggle with an increasing multitude of mendicants, vagabonds, and sturdy rogues, among whom wandered thieves and other dangerous persons who gave much trouble and made property and life

insecure. Various cities sought to restrain youth from following this life and set them to work at spinning, weaving, and other simple industries. The same kind of discipline was applied with encouraging results to criminals.

Pope Clement XI, about 1703, transformed an old hospice into a reformatory for young offenders, and the motto on its wall affirmed the ideal of modern prison reformers: "It is a small thing to coerce the evil by penalty, unless you make them upright by discipline."

But of any fundamental reform in prison structure and management in most of the European countries we cannot speak during the eighteenth century. In England, on the Continent, and in the American colonies all sorts of offenders were commingled; the insane, the epileptic, the idiot, the poor debtor being thrust into miserable, narrow, dark, and unwholesome dungeons without distinction or classification. Hardened offenders were often worked to death in the galleys for the benefit of the state, and reforming influences were hardly considered. The "jail fever" often broke out among the unfortunate prisoners, and sometimes swept away jailers, sheriffs, and spared not judges.

The wildest immorality reigned among this dissolute mob, and all who had money were exploited by the jailers.

Into this underworld of horrors came a philanthropist of large views and sound judgment, the renowned Englishman, John Howard. He visited the prisons of England and of the Continent to learn the conditions and to discover methods of improvement. He found in Holland the beginnings of all modern reforms and reported them to his countrymen and to the world with original reflections of his own. He found in the Netherlands houses of correction which were clean and in which people were trained to orderly habits and industry. A passage from Howard's classic volume will show how the Hollanders anticipated some of the fundamental principles of progressive legislation and administration. "The principal cause, that debtors as well as capital offenders are few, is the great care that is taken to train up the children of the poor and indeed of all others to industry. The States do not transport criminals, but men are put to labor in Rasp-houses and women to proper work in the Spin-houses, upon this professed maxim,

'Make them diligent and they will be honest.' Great care is taken to give them moral and religious instruction and reform their manners for their own and the public good. The chaplain does not only perform public worship, but privately instructs the prisoners, catechises them every week, etc., and I am well informed that many come out sober and honest. Offenders are sentenced to those houses according to their crimes for seven, ten, fifteen, twenty years and upwards, seldom for life. As an encouragement for sobriety and industry, those who distinguish themselves by such behavior are discharged before the expiration of their term . . . so that fourteen years will sometimes be reduced to eight or ten; and twelve years to six or seven. This practice of abridging the time of punishment upon reformation is in every view wise and beneficial."

With the progress of rational and humane methods for the reformation of criminals went a gradual abolition of corporal punishments and torture, and a diminution of capital punishment with proposals for its ultimate abolition as incompatible with the principle of

reformation and as having a brutalizing influence on the public.

To this movement many distinguished men contributed — Grotius, Voltaire, Beccaria, Montesquieu. The new humanistic spirit of the eighteenth century compelled the rich and aristocratic classes to pay some attention to the workmen and the poor. The French Revolution shook the theories of despotism and asserted the rights of man, even of the lowest. The revival of religion under the Wesleys gave to philanthropy the fervor and zeal of its awakening and its high value of the soul even of the miserable. The Society of Friends, often called Quakers, founded "The Philadelphia Society for Assisting Distressed Prisoners" in the year of our national independence, 1776; and after the war, in 1787, the "Philadelphia Society for Alleviating the Miseries of Public Prisons" was founded. No attempt can here be made to follow the details of the reform movement in which the names of John Howard, Elizabeth Fry, Pastor Fliedner and others hold such a conspicuous place, and to which many men of good will in all lands have contributed. America has selected

for special distinction the founders of the American Prison Association, the organizers of the Cincinnati Convention of 1870, and the International Prison Commission, which held its first Congress in London in 1872: Dr. E. C. Wines, F. B. Sanborn, Z. R. Brockway, and those who wrought with them.* It is interesting to note the fact that thus far all the representatives of the United States Government on the International Prison Commission have been ministers of the Gospel who studied prison science in order to help apply the principles of Christianity to the saddest needs of lost men.

"There seems to be a general agreement that our prison system is a failure. It keeps people off the streets for a longer or shorter period; and as a rule they leave it in a better condition physically than when they entered; but, thanks to their seclusion and to the habits they have learned, they are less fit to obtain work, and to perform it, than they were before their imprisonment. Their experience does not deter them from repeating their offenses, and

* For details, see *Prison Reform,* published by the Russell Sage Foundation.

it does tend to sink them in the mire. No one ventures to suggest that the prison is a reforming agent." Thus writes a keen if radical medical officer of the Scotch prison system,* and the same final judgment may be heard among prison men and the police.

If the prison neither reforms nor frightens offenders, what purpose does it serve?

Many observers and administrators are not prepared to pass so sweeping and severe a judgment upon prisons, especially those for younger men, when administered in a reformatory spirit. All acknowledge the difficulty of reforming men of long established bad habits; all agree that it is our duty to put forth our best endeavor to improve the character of those who must be incarcerated.

2. Kinds of Prisons

Excluding schools for children and youth where compulsory detention is a necessary part of the educational discipline, and not "punishment," we have in the United States prisons of various kinds: (*a*) the police stations of

*Dr. James Devon, Medical Officer, H.M. Prison, Glasgow, *Some Causes of Crime*, 1908, p. 1. (Dr. Devon is now Prison Commissioner in Scotland.)

cities and towns, with their "lockups," places of detention for persons arrested and awaiting the action of a lower court; (*b*) the county jail; (*c*) the intermediate prison or "reformatory" in certain states; (*d*) the state prison, or penitentiary, for serious offenses; sometimes a guarded gang for work in mines, quarries, on roads, in field or forest.

(a) The City Lockup. — The cells or cages of these petty prisoners are used to keep arrested persons only a few hours. They are often in a deplorable physical and moral condition, filthy, with open cages where vilest characters mingle with those less corrupt or even innocent, in a way disgraceful to our civilization. In some of the most recently constructed police stations, the arrangements for the health of horses are excellent, while the cells for human beings never get light or pure air, and a decent prisoner is exposed to view and contact of the most degrading kind. The mystery is that police officers can be so blind to their own danger of infection and to the brutality of the situation; and the city officials, physicians, and clergy must share the blame, because of their neglect.

Into these little prisons are brought at all hours of day and night all kinds of miserable human beings: burglars caught in the act of breaking into houses, pickpockets, stupid or raving drunkards, foul-mouthed prostitutes maddened by drink and fighting the officers with tooth and nail, innocent boys arrested for playing in the street or for overlooking the hideous command "Keep off the grass!" Thither comes also the confused immigrant girl who cannot speak English, and who has escaped by a miracle from a brutal cab driver who is hurrying her to a house of ill repute. Into this same foul receptacle and catch-all is forced the decent mechanic held as a witness, the stranger arrested because he looks a little like some wanted burglar. Hither are brought the poor insane and demented, the sufferer from sunstroke arrested for intoxication, the tramp, the deserted and starving women, the despairing.

It ought to be plain to any person of decency and common sense that a separate cell should be provided for every person arrested. The clean man has a right to be kept apart from those who are filthy in body and mind. Inno-

cent men have a right to be separate from hardened criminals. Conspirators in crime should not have a chance to plan their defense so as to defeat the state's prosecuting attorney. Visit your own city lockup and report what you find. If it is objected that it is impracticable to give a cell to each prisoner, especially in case of a circus or a riot, tell the objector it can be done. It takes little more space than the corridor plan if the architect knows his business. In any case the exceptional stress should not set the rule for all days and all prisoners. The author will furnish a plan to those who desire it.

(b) The County Jail. — This institution is found in most counties of the United States. It serves the purpose of a lockup in rural districts, it detains prisoners charged with crime and awaiting trial, and it is also generally used for inflicting short sentences of incarceration on persons convicted of minor offenses.

A standard * for the judgment of conditions in a jail is here given:

The jail should be strong and safe.

* From a report by the writer to the American Prison Association (1907), and published also in *Charities and the Communes* (now the *Survey*), March 21, 1908.

The jail should be so built and its affairs so administered that the health of prisoners, officers, and the public shall not be in peril. This requires that the food shall be simple, wholesome, clean, and of sufficient quantity. The dietary should be prescribed by the state board of health or other medical authority. Clean underclothing should be furnished by the county if the prisoner is too poor to pay for it. This underclothing should be boiled and cleansed in a laundry and not in bath tubs, as sometimes occurs. The bedding should be kept clean; no prisoner should lie on his bed in the day time, unless sick, in which case he should be placed in a hospital ward. Ventilation should be secured by providing a cell for each person, with a window opening directly to the outside air, and the air should be renewed constantly by forced currents through pipes to the roof from each cell. Each cell should be heated in winter from a central system and the foul air removed by forced drafts. The air of a cell should never be breathed by any one save the single occupant of that cell.

The partitions between cells should be of reinforced concrete; the walls, ceiling and floor

with a surface which can be washed clean. In this arrangement each cell is a unit and can be fumigated or otherwise disinfected without interfering with other cells or halls; this is impossible in the ordinary construction of steel cages in the center of one large space.

Electricity is best for artificial lighting, because it does not foul the air and in summer does not heat the cell. Direct sunlight is necessary to purify the air and destroy bacteria. A cell into which sunlight does not stream is a center of infection for the entire jail and for the community.

The drinking water should be analyzed periodically by competent experts, and, if necessary, boiled to prevent intestinal disease. Filters are dangerous. The waste and excrementitious matter should be disposed of through proper drains and sewers. Cesspools are disgusting and dangerous. Night buckets cannot be kept clean.

Provisions for bathing should be made by means of shower baths, in screened compartments, and the waste water conveyed by cement floors to the sewer. Tubs are some-

times means of communicating venereal and other diseases.

Every prisoner needs at least one-half hour every day for outdoor exercise. If convicted persons must, unfortunately, be retained, they should be occupied with useful industry in the open air or in well ventilated sheds. Recreations are essential to health if men are confined many months.

A jail should have a hospital ward or special cells for the sick. A physician should call when needed, and at least once a week inspect sanitary conditions and have authority to order improvements.

The structure arrangements and hygienic measures should be regulated by the state board of health.

The prisoners should not be crowded, for crowding vitiates the air and increases peril from communicable diseases. Each prisoner should have a cell to himself; there is absolutely no other way to safety.

Idleness is injurious to the health and to the morals of the prisoners, and the idle prisoner is a burden to the public. Prisoners awaiting trial cannot be compelled to labor but should

have an opportunity of working for wages, if kept more than a week; and if convicted persons must, for a time, be kept in a county jail, they should be required to occupy themselves with some useful and productive industry.

There are certain classes of persons who should never be placed in a jail or lockup. The sick, those suffering from sunstroke or apoplexy, the insane, the feeble-minded, the epileptic — all who are abnormal or ill — should be sent to a hospital, never to a prison. Boys and girls who have committed some offense, or who are in trouble, should be sent to a detention home and placed under care of school officers.

First offenders and many drinking men who are now committed to jail on sentences might better be disposed of by suspending the execution of their sentences, on condition that they accept employment, support their families, and keep out of vicious company. If the court has a probation officer, the man should be placed under his supervision. If there is no probation officer, the offender should be required to report to the court, or to some person designated by the judge, at stated periods. If work

on public roads is in progress, it might furnish employment for men released on suspended sentence.

Every convicted person, the moment sentence is pronounced, should be taken immediately to the proper reformatory, penitentiary, district workhouse, or labor colony. Thus the number of prisoners in county jails in idleness would be greatly reduced.

Only persons charged with serious offenses and crimes awaiting trial would be left in the county jail, and each prisoner would be saved from contamination by being placed in a cell so constructed that he could not see nor converse readily with any other prisoner; but he would be under the watch and influence of proper persons appointed by the authorities.

The sheriffs, jailers, and guards should be men of good character. Carefully selected visitors, representing societies of reform and religion, persons of common sense, can help the prisoners by conversation and by furnishing good reading matter.

All officers who come in contact with prisoners should be paid adequate salaries, and the fee system should be abolished, where it

still exists, because it is a source of corruption and injustice. No one who has to deal with prisoners should be permitted to sell them food or luxuries.

Rules of conduct of prisoners should be drawn up by a state central authority to prevent arbitrary treatment of prisoners. Disciplinary measures should be defined and limited by the same authority, and the state should have inspectors to see that the regulations are respected by the local officers.

Unless the visitors to jails have some standards of judgment in their minds, they come away from a jail little wiser than they entered it. In their reports they "whitewash" the administration and lull the public conscience to sleep.

CHAPTER VI

Reformatory Methods

THE aim of all punishment is the protection of society and the reformation of the offender. The criminal is an anti-social person; he lacks self-control; quite often he is almost wholly destitute of moral ideals. Any method of prison procedure and discipline should take these things into account and should govern itself accordingly.

All prisons should be reformatory in spirit, aim, and method; but it is necessary to have institutions for convicts of different ages and characteristics, and the prisons for young men require a suitable equipment and method of administration. Here we are to present some of the essential features of what is known as the "American Reformatory."

1. Material Equipment

The site should be selected upon advice of competent sanitarians. The buildings are generally arranged for individual cells in a corri-

dor for the night and large shops for work in the day time. It seems desirable to have about 10 per cent of the cells entirely separate for individual treatment of prisoners having special needs. Light and air should enter directly from outside, the cells being next the wall and not in the central part of a hall. A gymnasium is desirable for the physical development of the young men. Drill grounds are required for military exercises, whose value seems to be beyond dispute.*

The school rooms should conform to the highest standards of modern requirements. Shops for manual training and trade instruction, with proper furniture, are indispensable. The library room and appliances should be arranged by conference between prison authorities and practical librarians. Solitary cells for isolation of prisoners under discipline for subordination should be arranged with windows which can be made partly or totally dark if thought necessary by the superintendent. In some of these cells rough work, as stone breaking, may be offered, and food refused to those who will not work.

* Mr. Z. R. Brockway, in *Prison Reform*, p. 99.

2. Activities and Methods of Life

It is impossible here to discuss the many aspects of the reformatory process, in which every factor is important: dietary, clothing, uniforms, physical culture, trade training, military exercises, school of letters, lectures, discussions, library, newspaper, entertainments, music, pictures, drama, religious services, moral influences, visits.*

Among the factors which influence the amendment of the prisoner we select a few of the most important principles for emphasis.

(a). — It is fundamental to the success of the reformatory process that the freedom and enjoyments of the prisoner be made to depend on his conduct while he is in prison and afterward while he is out on parole. If the time which he is to serve is fixed in advance, and nothing he can do will shorten or lengthen it, the most powerful means of influence is taken away from the prison management. The so-called "indeterminate sentence" is absolutely necessary to the full success of the reformatory discipline.

* For many such details, see *Prison Reform,* The Russell Sage Foundation.

(b).—Treatment must be adapted to the character and needs of each individual prisoner, and modified, as in any good school, according to the peculiarities of the person. It goes without saying that the director must be impartial and have no pets. Discipline must not be relaxed and order must be steadily maintained; but no two men are precisely alike, and even when prisoners are classified their teachers must individualize. The physician cannot prescribe doses for more than one patient at a time; the diet of the sick must be suitable to the sick; the clothing should be made to fit each man; the physical exercise should be selected by a trained director who knows how to discover and correct individual defects; the trade to be taught must be adapted to the individual capacity and probable future career and habitat; the books and advice should be given after careful study of the pupil.

(c).—The daily task should not be excessive so as to induce fatigue poisoning and waste of tissue; but it should keep every man up to his highest capacity. The life in many prison shops is a training for loafers, and does not fit men for the competitive methods of

ordinary work places, where men must keep a certain pace or lose their jobs. Indolence, hatred of steady and prolonged effort, is a trait quite common among criminals, and the prison should not develop this characteristic. The real world of honest folk permits no play during work hours, but in the criminal underworld a paradise of play is the ideal of convicts. A new habit must be established, and these men of feeble, unsteady purpose must be so habituated to the full exertion of their powers that when released they can at once take their place among productive and industrious workers. If this is not done the man is sure to return to the lax, impulsive, lazy conduct of the criminal and parasite.

(d).—The personality of the director and his assistants is the supreme factor in the reformatory process. Methods, devices, systems, are important, but a good superintendent will reform men even with very imperfect appliances and methods; while if he is a superintendent of the highest type he will combine spirit, system, methods, in the best possible way.

The director, who is responsible for the out-

come, must dominate every part of the process. There cannot be two or more heads to an institution. The state board should know the policy of the superintendent and study the results of his administration, but, while he is in office, they must not dictate and meddle. A strong, self-reliant, inventive, capable man cannot walk in chains, cannot follow petty rules made by others. If he is fit for his place a board of laymen cannot instruct him. If he fails it will show in the records of results, and he must be discharged; if he violates law, it can be proved, and he has no right to stay; but while he succeeds in reforming men he must be permitted to do it in his own way, but always within limits fixed by law.

Just here lies a danger; vigorous, capable directors often fail to develop capable successors, younger men who can follow them or take charge of similar institutions. The man accustomed to unquestioning obedience to commands frequently loses the capacity for teaching younger officers; they tremble before him, but do not intelligently enter into his plans, because he has not taught them to understand his principles. He may be so impatient of

questions that he drives away competent aids and finally surrounds himself with obsequious tenth-rate followers. Then something is apt to collapse. Each great reformatory ought to be a school of independent, capable officers; of men who can grasp principles, invent ways of reaching ends, use their own minds and not become automatons, puppets pulled by wires from the superintendent's office. In many European prisons there are regular and frequent council meetings of all the higher officers of each institution, in which many problems are fully and freely discussed from all points of view. The superintendent must of course have the deciding vote, but not without giving all a hearing. When the director of the prison system of a country comes to the institution he presides at a council of a similar nature. The writer has attended such meetings under the guidance of Dr. Krohne in prisons of Prussia, and has listened to discussions which showed respect not only to the great prison authority, but to the deputies, teachers, chaplains, and other local officials.

(e). — In the reformatory process habit is central. Mr. Brockway has given admirable

expression to this principle by saying that the rebel against society needs at first to be "put into a strait-jacket of habit" as his first lesson. The order of the institution is made, as nearly as can be, the order of normal society, and the prisoner finds it to his interest at once to conform. The officers expect obedience to the rule; if any one rebels he must be coerced — by the dark room, the solitary, by whipping, or by some other measure which the individual feels as deprivation or pain. This need not be cruel nor brutal; it must be made effective. The most cruel thing is to permit insubordination to grow without check into mutiny; for then wholesale slaughter may be necessary.

The principal habit to be formed is that of productive industry, for productive industry is the absorbing occupation of the honest world, and is the primary condition of living a free life in the society of honest citizens. Most of the hours of prison life must, therefore, be devoted to steady, unbroken, useful work, or in training for such work.

But thrift also is a habit of the community of honest men, and this must be learned by the thriftless, improvident convicts who fill our

reformatories. Want of foresight is a trait of the delinquent; the system of credits and debits in a reformatory is the method by which the civilized habit is set up and made firm in second nature.

The good things which a prisoner desires are freedom, food, comforts, companionship; and possession of these is made to depend on the right use of effort and materials.

With less devotion of time, but of supreme value, are the higher ideals which must also be vividly, effectively, and habitually made to take full possession of the imagination, conscience, affections, and reason of prisoners. There are some reformatory influences which are not found in habits of industry and thrift, the fundamental economic virtues. The "materialistic" or "economic" theory of history is inadequate to fully explain history; and it is inadequate as the exclusive basis for reformation which is also education.

A man cannot start to climb up out of the evil pit of vice and crime without physical renovation, good feeding, useful labor, and habitual economy. Feeble, crude, coarse, bes-

tial men require very low and elementary incentives. But something far more spiritual is necessary to enable one to climb high enough and move far enough to be safe from falling back into the pit. We come gradually to do what we think vividly and habitually. The images in the mind of the average true criminal are few and base — eating, liquor, sexual indulgence, and "easy money" to buy these. In his world anything he has appetite for can be bought for money. Hence at Elmira, Concord, Mansfield, and all the best reformatories allurements to the higher world of civilized man are offered. The enjoyment of them cannot be compelled, as industry can; but the rudiments of the spiritual life remain in the bottom of the soul of every man.

The long waking hours of night, and Sundays, not given to work, must be occupied with something which attracts upward, while the drill of the institution appeals to fear and economic hope. Interesting, exciting, stimulating, fascinating, ennobling images are raised by moving pictures, magic lantern shows, biographies, recitations, books, addresses, song, organ and orchestral music.

But what can a warden or superintendent do in this nobler world if he has no knowledge of its existence, no taste for its joys, no sense of its supreme value, no skill in presenting it attractively to hardened human beings, no faith that wicked men are even capable of entering this higher life?

The supreme "prison reform" is to secure splendid, well equipped, powerful leaders of men, who have a vision of the finest possibilities of the spirit and skill to inspire faith in others.

In prisons of the state we cannot logically require any profession of religion, any creed test, or even attendance at divine service. But we can and ought to demand that wardens and superintendents be appointed who are well educated, who have experience as teachers, who are sober by habit, irreproachable in conduct and reputation, not cruel nor arbitrary nor passionate, and yet firm and unyielding in requiring order and obedience. Quite generally a man of these traits will be religious, and he will always treat the convictions of others with respect even if he does not entirely share them.

3. Colonies for Treating the Alcoholic and Degenerate

The word "degenerate" is not exact, but it is frequently used to designate persons who have lost all power of self-control. Perhaps originally weak in will they have become totally unfit for free life through idleness, drugs, alcoholism, sexual excess, venereal disease, malnutrition, and irregular ways.

The ordinary legal provisions for these miserable and dangerous human beings are not only useless but destructive of what little material is left for reformation. The short sentence for this class is condemned by all practical men in all countries and it persists because the legal profession holds so strongly to an antiquated theory of retributive punishment, and is too little influenced by modern medical science. The legal profession is first of all responsible because it has the most authority in the field of law; but the ministers, teachers and editors cannot escape their share of guilt. The eyes of some of our self-satisfied leaders of thought and law and morals would be opened if they could be persuaded or compelled to spend a

week in any city house of correction. If a week of such residence did not demonstrate to them the folly and wickedness of the present law on this subject they could not see by the light of heaven, and they would not believe if Moses rose from the dead and brought with him the Decalogue on the two stone tablets. Prosecuting attorneys and judges who go through the farce of doling out day by day measures of "justice" for drunkenness and petty theft, without a persistent appeal to the legislature to reform the whole business, should be ashamed of themselves. Some of them are ashamed and are doing what they can to find a remedy.

Meantime, in several countries, experiments are tried with various work colonies which combine agriculture, gardening, and shops in a system of hygienic, medical, industrial, and moral efforts to restore these diseased and enfeebled wrecks of citizens to health, strength, and self-control. If persistent efforts fail, and all the resources of modern science are employed in vain, then both public security and humanity will require their prolonged custodial segregation; they are beyond cure and unfit

for freedom and parenthood. Custody does not mean punishment any more than it does in the case of the incurable insane; it is common sense and charity applied humanely to social defense.

Let us ponder a true story which presents a well known type in all the cities of the civilized world. Mrs. Z. was placed in care of a probation officer. She was a woman about thirty-five years of age who took to drink after separation from her husband, a well-to-do man. She had been sent to the house of correction several times for being drunk on the streets. She was placed on probation, but could not keep away from liquor. She was arrested again and again, and on her promises was permitted to go free. She was sent to a sanitarium for alcoholics and did well for a time, then quarrelled with the matron in charge, was found by a deaconness and brought to the probation officer. She was taken to a home for the friendless, ran away from there, and was found drunk the same night and sent again to the city workhouse. The probation office cannot handle her, for she has no power of resistance. She is hysterical and probably

epileptic. Each time she insists that she is going to reform, but each time she fails. Permanent custody in such cases seems necessary.

Into the special forms of administration desirable in state prisons for habitual offenders, for insane prisoners, and the problems peculiar to prisons in the warm districts of the South, there is no room here to enter.

CHAPTER VII

Prisons and Prison Administration

THE scientific treatment of this vast subject is chiefly of interest to specialists, but there are some aspects of the subject on which the public can form a sound opinion, and these are factors which distinctly affect wages and profits in the free world of industry and trade.

1. Prison Labor and Its Products

No thoughtful man will deny the necessity of requiring prisoners to work during the time they are deprived of liberty. If an able-bodied man is housed, fed, and clothed at public expense, he should be obliged to earn what he can for his support. The act of committing a crime certainly does not confer the privilege of support upon a bad citizen, nor free him from the moral and legal duty of supporting his dependent family. The honest citizen earns his means of livelihood, and he should not be obliged to add to his burdens the task of earning a living for culprits.

All this is commonplace which no one disputes in words. But in actual practice the problem of prison labor is made difficult in all civilized countries by the bitter, continuous, aggressive, and persistent antagonism both of manufacturers and wage earners. The reason given for this opposition in legislatures is that the state, by selling the products of cheap convict labor on the market, lowers the selling price of commodities and reduces wages. Therefore employers unite with their employees in sending representatives to the legislatures pledged to restrict or destroy the market for prison-made goods.*

Many administrators of prisons have denied that the sale of prison-made articles has any tendency to reduce profits and wages; and have declared that the amount thus sold is too small to affect the market. Sometimes the prison administration has, perhaps reluctantly, been compelled to yield to this pressure and to resort to various devices for keeping convicts busy without injuring free labor and out-

* See *Hearings before the Committee on Interstate Commerce,* United States Senate, 63d Congress, 2d Session, on S. 2321, March, 1914.

side capital. For example, they have set the prisoners to pick to pieces bits of rope, or have employed strong laborers at sorting beans or making paper bags or knitting stockings. In a few cases the prisoners manufacture binding twine or coarse jute bags in competition with great corporations which are unpopular with voters; or the prison sells the labor to outside contractors for a price per day, or sells the product of labor at an agreed price per piece. No system has been found which is entirely satisfactory.

Whatever system is adopted it should be based on the following principles which are generally accepted: every man should be required to work steadily and strenuously, but not to exhaustion; the work done should be a useful and necessary service or produce a useful commodity which has a market value; each man should be employed at a task which will conserve and improve his skill and fit him for earning a living when he is set free. The product should not injure the economic condition of manufacturers and their free employees. It is coming to be generally agreed that what is called the "state-use" system comes nearest

to fulfilling these conditions. In this system each man is required to work at the calling for which he is best fitted by nature and training. The prison is not only a manufactory but a trade school, and the industries are numerous enough to fit the peculiarities of many classes of workmen. The products of the prison shops are not sold in the open market, but are supplied to the institutions of the state, of countries, and of cities, so as to avoid direct competition with the products of free labor. This plan is not free from difficulties. Even under the state-use system free labor loses from its market a good customer, the state. Competition is kept out of sight to some extent, but it is not destroyed. Perhaps it does not tend so much to lower wages and profits as it would do if the competition were open and direct. There is room for difference of opinion here.

Another difficulty in the state-use system is that it imposes on the administration a very heavy task. In addition to the disciplinary and reformatory duties of the warden he is obliged to be responsible for the direction of numerous industries. This objection can be

met in part by the appointment of specialists for each department; but the burden must remain very great. By building prisons with a smaller number of prisoners the task would be simplified. Many of the best authorities claim that no warden should have under his responsible charge more than five or six hundred men. Each of such smaller prisons in a large state would specialize its industries; and all the institutions would be under the control of a central administrative superintendent or commission.*

In the distribution of the product of prison industry the prisoner should have a direct interest. He should be encouraged and stimulated by rewards for his effort, although he cannot earn what he has cost to the state for his conviction and his maintenance. The prisoner's family, if he has one, should not be forgotten in this distribution.

2. State Central Supervision and Control

One measure is urged by all who really desire improvement in our penal system and are

*E. S. Whitin, Ph.D., *Penal Servitude,* New York; National Committee on Prison Labor, 1912.

competent to form a reasonable judgment in this field: we must bring all our police, the wards of our courts, our places of detention, our jails, our reformatories, our prisons, our probation and parole agencies under the direction of a state central board of administration.

The criminal law is state law and the state is responsible for its execution. Local administration, as experience in all countries has proved, unless it is centrally controlled, has certain incurable defects. Local administrations are unequal and unlike, unless their methods are brought into a uniform system. Each county has its own standards; each new officer brings in a different rule, and very few of them have any knowledge of science, of reformation, of law, or of the world's experience. Their execution of the law being unequal, the sense of justice is offended. Local administration by elective officers not responsible to experts is generally petty, narrow, partisan.

The state can command expert service; the counties have only amateurs, and often quacks. County administration is wasteful and very often shamelessly corrupt, especially

where the system of paying sheriffs and jailers by fees obtains. The jails in counties should be merely places of temporary detention for persons awaiting trial; convicts should be sent to state institutions or colonies.

The state should also directly administer the parole measures. The Eighth International Prison Congress of 1910 voted: "That the Board of Parole or Conditional Release should be so constituted as to exclude all outside influences, and in its membership there should be at least one judge, one representative of prison administration, and one representative of medical science.

"That reformatory treatment should be combined with a system of liberation on parole under suitable guardianship and supervision under the direction of a proper board."

Such a board, responsible to the state, and rendering full account of its actions and their reasons, would protect the individual prisoner against injustice, would provide the best possible means of restoring the reformed man to honorable self-support, and would keep under control those unreformed criminals who cannot be permitted to go free without certain

guarantees that they will not at once go back to theft, burglary, murder, or vagabondage.

*3. Prisoners' Aid Societies**

Under a well organized probation and parole system the state itself will provide for the employment and supervision of offenders who are under the control of courts, prison authorities, or parole boards. Indeed, this is a duty which the state should perform, and the administration of justice is incomplete without it. Usually a prisoner is not permitted to go out on parole until occupation is secured for him and assurance given that he will not fall into evil associations.

But voluntary associations of religious people may be of great assistance to the legal authorities. They may visit the prisoner during his life in prison; they may look after his wife, children, indigent and heart-broken parents, and facilitate correspondence between them. Family affection is a powerful incentive to good living and it should be cultivated by all possible means.

* A valuable periodical is the organ of the National Prisoners' Aid Association, *The Delinquent,* 135 East Fifteenth Street, New York City.

The prisoners' aid societies may also assist the parole officers in creating public sentiment favorable to sympathetic interest in the discharged convict, and such associations should work in entire harmony with the state agents.

4. Religious Services in Prisons

"But if the state elects to imprison them, it has clearly no right to starve either their bodies or their souls. The very fact of shutting them up creates the duty of providing them with suitable sustenance for every part of their complex being." (Anderson, *Criminals and Crime,* p. 170.) This statement of a competent authority on prison affairs is just and true.

The first duty of the church is to get the appointment of chaplains "out of politics." The law should provide that Jewish, Catholic. and Protestant chaplains should be appointed on the nomination of representative officials or representative bodies. The organization of federations of churches throughout the Union will make this method practicable. There are already excellent men in this office, and their influence is wholesome and respected. On the

other hand, appointments have been made for factional and partisan reasons, and some of these have been of broken-down hacks of preachers who cannot find a parish, and who seek a congregation which cannot run away. The prison chaplain should be a man of thorough education and gentle manners. It is a terrible mistake to appoint an illiterate, narrow, rude clown to vociferate platitudes before prisoners on the false supposition that these rough men prefer a rough and ignorant minister. The opposite is true; they respect a man who is manifestly and in every way their superior — but who does not boast and strut. They instinctively revere a clean, earnest, sympathetic gentleman who has common sense and shrewd insight into human nature.

The church federations should select such men to serve in turn three to five years. It is not necessary they should remain in office all their lives. An experience of five years would be a new revelation to many a minister of the gospel. If he is trained, faithful, and sensible he will come back into the free world with a conception of the ravages of sin, the power of temptation, the hardening influence of habit,

the injustice of many social situations, and a vision of the infinite goodness and patience of God which no other experience could yield. The writer of these lines has acted as chaplain and preacher in many prisons, for brief periods, and has a strong personal respect for many of the chaplains of correctional institutions in America and Europe. It is a shame that, in some instances, the churches have discouraged strong men who were willing to serve in this office; but generally the sin of the church has been one of ignorance and blind neglect — a sin of serious consequences, for which we should bring forth fruits meet for repentance.

Churches and religious associations should be extremely careful in the selection of occasional or regular visitors to jails and other local prisons. Sentimental drivelers, neurotic women, fussy men who "mistake activity for usefulness" are unfit for this function; quite as unfit as are cold and pharisaic icicles who chill the atmosphere of the cells as soon as they enter the outer corridor.

The religious visitor must not meddle with matters of police, courts, or prison administra-

tion. He is incompetent for these functions. His mission is to the man, and especially to his spiritual need. The less said about the particular circumstances the better, but the offer of help may be appreciated.

The church can help prisoners very much by supplying them with good papers, magazines, and books, by permission of the officials in charge. But no publications should be sent to a prison which contain questionable matter, sensational stories, literary rubbish which should go to the paper mill for chemical transformation. One choice book is worth more than a shelf full of trash.

The local churches should look after the families of prisoners with exquisitely delicate and tactful care. The wife, more unhappy than the widow, the children of fathers who have brought the home into contempt and shame, need the moral support of good and kind persons, and often material help. They may be kept from despair by sympathy and countenance, and the father's absence may be even turned to a blessing by the paternal solicitude of a strong business man who is a disciple of the Master and filled with His spirit.

CHAPTER VIII

Prevention of Crime

THUS far we have considered chiefly the treatment of offenders, and the methods by which good citizens can cooperate with the authorities and with specialists who are seeking to improve courts and prisons. We turn now to the study of measures proposed for the prevention of crime by direct intervention in the lives of the young who have already started down the wrong path.

1. The School

We mention first of all the public school administration. This organ of the state has a large measure of control of children and youth, and it can do much to guide the inexperienced away from delinquency. Measures already adopted by the most advanced school authorities will indicate the direction of progress.

(a). — In every town and city there should be a continuous medical and psychological ex-

amination of school children. Physical defects of sight, hearing, and nervous system, and toothache, make children slow, irritable, morose, discouraged, reckless, and this leads to rebellion, truancy, morbidness, and sullen mutiny. These physical and psychical defects should direct attention to home conditions — poverty, malnutrition, alcoholism, vice, quarrels, desertion.

(b). — Expert examination opens the way for treatment. First of all, the parents must be instructed and required to give proper food, clothing, dental, and medical care to their children. This is the legal duty of all parents. If poverty makes it impossible, public funds and private charity must assist. If there is criminal negligence it must be corrected by appeal to the courts. School nurses follow the examinations of doctors with visits to the homes of children to cooperate with parents, physicians, and charitable agencies to see that the treatment is thorough and effective.

An illustration of the need of careful study of truants is kindly furnished me by Dr. W. T. Healy. The boy is twelve years of age, of good development and nutrition, pleasant and

responsive in manner, with well shaped head; everything about him is physically normal, except that he has extremely defective vision. He was given many mental tests, in which he showed fair ability and intelligence, when truancy and imperfect vision are taken into account. One of the school principals had said he was irresponsible or defective; but the tests did not show this. There is no parental school in the town where he lives, and therefore no appliances for curing his truancy habit. He had been arrested for stealing coal and selling it, and had been suspended from school for annoying girls, using bad language, and fighting. His developmental history shows that he is the only child of his father, but his mother is married a second time or lives with another man and has other children. The mother was healthy before his birth and his birth was normal. The child was not backward in walking or talking and never had any serious injuries nor convulsions. The father and mother separated when the boy was about six years of age. He went to live with his mother, who became a bad woman and is in vicious surroundings. No wonder he went astray. He

was sent to a reform school, where his eyes will be cared for and he will be taught steady and useful ways.

(c). — Truancy is the school of delinquency, and therefore the school administration must put forth every effort to secure regular attendance. A good truant officer, or, better, a "school attendance agent," with a sufficient number of trained assistants, is an effective ally of morality. He should be a man of energy, character, tact, courage, insight, and genuine love of children, and should be thoroughly trained in school work. He must himself be an educator and not merely a jailer who drags in the imps by force.

(d). — If children are kept from school by the poverty of parents then public and private relief must make attendance possible. It is here that relief measures require for wise administration effective organization and administration. Worthy parents should not be separated from their children merely because they are poor. Starving children cannot learn nor remember, for the pangs of hunger monopolize all the feeble powers of attention. In some countries such children are fed in the school,

gratuitously or at lowest possible rate of cost. But if a child comes hungry to school it is probable that the entire family needs help; and the place for relief is in the privacy of the home, not in a public building where recipients may be ridiculed and humiliated, and sneered at as "paupers."

(e) The "Parental School."—If children are "incorrigible," if parents, teachers, and "attendance agent" fail to keep them in regular classes, some special method must be adopted. It will not do to simply discharge a rebellious child from a public school, for the "bad" child most of all needs the best educational helps. To drop the "incorrigible" from the roll and let him wander and drift is the sure way to produce a vagabond and a thief.

In some cases it is sufficient to set apart special rooms for these weak, restless, and exceptional children, and place over them teachers of exceptional ability to interest and improve pupils with whom the ordinary teacher and routine methods fail.

Certain cities go further and provide "parental schools" in the suburbs; schools with a special staff and with arrangements for active

work in garden and shop. After a period of this training the pupils may be willing and ready to return to the regular classes. It is the firm conviction of many school officers that if these manual activities and outdoor occupations were connected with all the schools truancy and vice would diminish. The most interesting kind of play, for many children, is useful work.

Education must be more than instruction; to be effective in preventing crime it must include the cultivation of the spiritual life. Professor Huxley, an eminent man of science, insisted on this fact. "Education is the instruction of the intellect in the laws of nature, under which name I include not merely things and their forces, but men and their ways; and the fashioning of the affections and of the will into an earnest and loving desire to move in harmony with those laws. For me education means neither more nor less than this."

With the exclusion of religious education from the public schools some states have shut out the most potent influence in moral education, the story of the life and teachings of Jesus Christ. Is it strange that the years next

following graduation from school should be the beginning of criminality for so many thousands of youth?

But let us not blame the public schools too much. Let us resolutely go about the task of restoring to the public schools all possible means of moral and spiritual education, and supplement these agencies by private effort on a larger scale than ever before attempted. The character of the coming generation is at stake.

2. The Juvenile Court

This splendid invention of modern legislation arose out of practical work for children and youth by humane societies, women's clubs, and earnest judges. Its legal basis was first drawn up by a noble and learned judge, a friend of neglected children. Many other lawyers, philanthropists, and social workers have contributed to its development, and now it has become popular in Europe. In 1911 the first international congress of friends of the institution was held in Paris, all the greater European nations being represented. The writer had the pleasure of representing the United States.

Formerly juvenile delinquents were treated as criminals, haled before the judge, tried as if they were fully responsible, made the heroes of public notice, and might be imprisoned or hanged, as if they were adults. During this whole process they were often in contact with the worst elements of society in lockup, jail, and court, and every minute poisoned their souls. Many judges felt the monstrous injustice of this method and let off the relatively innocent children with a reproof. The effect of this ill-timed "leniency" was deplorable, for the youthful offender came to feel that he was immune to punishment. After various experiments which failed, the idea of the juvenile or children's courts was suggested and adopted.

(a) Cases Suitable for the Juvenile Court. — These are children and youth, under seventeen or eighteen years of age, who seem to be in moral danger of becoming delinquents, either because they have already committed some offense which reveals a bad disposition, or because their family situation is one of cruelty, neglect, or evil example. Dependent children of indigent parents are brought before

this court in some jurisdictions, but this policy is sometimes questioned. (Judge Julian W. Mack, in *Preventive Treatment of Neglected Children*, p. 296.)

(b) The Legal Position of the Juvenile Court. — There are two views of the legal basis of this new institution: (1) that it is a criminal court, like any other criminal court, except that its procedure is somewhat modified to adapt it to the needs of young persons; (2) that it is like a chancery court, and its purpose is to provide an effective guardianship for a morally imperilled child or young person. The juvenile court originated in the criminal branch of the judicial system, and its traditions often retain much of the ancient character. Some of the older youth are in fact already criminal and require severe restraint and discipline; and for these provision must always be made. But, in general, we believe that the purpose of this new agency is to save the minor from a criminal record, from conviction, from shame, from lifelong disgrace, from despair, and from the economic and moral injury caused by a criminal condemnation.

There are still some enemies of our juvenile court. They tell us that young persons should be "punished" and not merely "educated"; that they should be made to "expiate" their guilt, and suffer the penalty of retributive justice. How distinguish this demand from ancient revenge? What precisely is "expiation of guilt"?

No one of us doubts that the state should so manage its educational discipline as to reveal social disapproval of the anti-social act. But incarceration is the worst possible method of doing this. We who have watched the operation of these courts are convinced that their vigorous, earnest, prolonged supervision and discipline of young offenders is far more effective than the former fitful, uncertain, and defiling procedure of the criminal courts and their use of county jails and prisons for punishment.

With true criminals the courts retain all power to be as severe as necessary to accomplish their purpose, to protect society and to reform the offender; and the old law, with its short, definite sentences to incarceration, did none of these good things, but actually taught crime.

(c) The Auxiliaries of the Juvenile Court. — The judge of a juvenile court, unless he is in a small town with few wards, cannot follow his charges into their homes and haunts, recreation, school, work; he must be aided in his difficult and perplexing task. Under the old system the matter was simple: fine, imprisonment, or discharge; but the new and nobler methods require a vast apparatus of means to make them effective.

The "probation officer" is the representative of the judge, and on his character, qualifications, and devotion all depends. He must secure information about the child and his family, habits, associates, physical condition, conduct in school or at work, previous record, and the circumstances under which the particular offense was committed. When the judge has all the facts before him he decides upon a course of treatment for the reformation of the minor himself, and the protection of the community against future trespasses. Then the probation officer tries to carry out this program as ordered by the court; he cooperates with parents, teacher, priest or pastor, employer, until good habits are established and

moral danger is past. The probation officer may be a volunteer or a salaried person; but the court must have some trained and professional officers under salary to make sure that his orders are carried out. Volunteers may be used when constant watchfulness and systematic visiting are not required. In large cities a "chief probation officer" is necessary to supervise the entire work with minors. All such officers should be selected by the judge from a list of candidates recommended upon examination by a civil service commission or board; and the judge should have the right to discharge summarily, for good cause shown. Women are frequently among the best probation officers.

In connection with every juvenile court should be an expert examiner, paid from public or private means, whose duty it shall be to study the physical, mental, and moral characteristics of each pupil, and also his domestic and other antecedents and surroundings, and place his findings before the judge as part of his grounds for action. Such an examiner should have not only medical training but also be acquainted with modern laboratory methods

of psychological study, and he should know enough of sociology to be able to analyze the influence of home and neighborhood on conduct. A committee composed of a physician, a psychologist, and a sociologist, or a psychologist with a commission of advisers, might best fill the requirements.

3. The "Big Brother" Idea

This movement brings the men of the churches into close and helpful relations with the juvenile court. The Roman Catholic Church never fails to have an alert man in the court to help the judge look after Catholic wards; and in this it performs its duty. Protestants have not been so prompt, and should provide representatives. Many a wayward boy needs the counsel, cheer, countenance, and aid of a wholesome, genial, shrewd man of the world of high principles. Such men will find the judge ready to welcome their cooperation. In every town there should be an organization of Christian men and women to support agencies on behalf of morally imperilled children. This requires steady, persistent, and skilful

labor, with careful records. Some person ought to be employed and paid to represent the religious forces and connect the somewhat fitful efforts of volunteers with the legal machinery of the court.

But boys at the perilous age (twelve to seventeen years) go naturally in "gangs." The gregarious instincts are developed. The boy wishes to get away from "little kids," girls, and women — except as they cook for his voracious appetite — and he gives his confidence only to those who understand him. Then it is he needs room to play, to roam, to fish, to gather nuts, to fashion and use tools. The Big Brother must be able to discover and understand these gangs; he must cooperate with home, parents, schools, church, and city government to provide grounds, apparatus, bats and balls, tools, shops; and then he must know when to be blind and deaf. It is a rather harsh period, and the chips fly while the rough corners are being knocked off. It is good to have a genial and wise man not too far away, who often joins in the games; but he must not select leaders nor be too inquisitive. The gang is a secret society and adults must not invade

its sanctuary, for then the vision and the splendor disappear in the light of commonplace day.*

4. Schools of Discipline for Wayward Girls

One of the crying needs of all our cities is the establishment by the states and by private philanthropy of an adequate number of reformatory schools for weak girls who have been neglected by parents and enticed by boys and men into evil ways. There are already some excellent institutions, but few are properly graded, they are not numerous enough, and they are too small to meet the demand. The judges of juvenile courts testify that they are obliged to send back to vicious surroundings a vast number of such girls, who ought to receive training in a school and then be placed in families under careful supervision of probation officers. Many of these girls are diseased and require medical treatment; they are centers of physical and moral contamination. A

* See J. Adams Puffer, *The Boy and His Gang;* G. S. Hall, *Adolescence;* W. B. Forbush, *The Boy Problem;* Publications of the Boy Scout Movement; A. Hoben, *The Minister and the Boy.*

lady superintendent of such a school declared that one bad girl can do more harm than fifty depraved boys. She attracts about her a swarm of undisciplined and passionate youth and helps to drag them down with her into a common ruin. Private philanthropy has not shown the power or the willingness to provide enough such institutions. The state alone can command resources. It can either build and maintain its own establishments or subsidize religious houses of reform; but in any case it must control the administration, because no private society should be given power to detain a citizen without constant public supervision.

In 1903, in ninety-six institutions for delinquent children in the United States there were 34,422 inmates, of whom four-fifths were boys. While boys are more aggressive than girls and more frequently law-breakers, these figures seem to indicate social neglect of girls who require special restraint and discipline. Many of these girls are in some degree abnormal or feeble-minded, and should be placed under observation and sometimes held in custody for a long time or for life.

CHAPTER IX

Constructive Measures

"IT IS too late to lock the barn after the horse is stolen," is a wise proverb; yet one who has thus lost a team is more likely to take precautionary measures. It is high time society had learned its lesson from hard experience. The solicitor for a fire insurance company gathers a harvest of premiums after each conflagration; but legislators are slow to learn, and courts are in the mental habit of studying precedents rather than facts of life. Men persist in building homes in the path of volcanic fires.

1. A Policy of Negative Eugenics

Crime is not inherited, but the physical conditions of body and brain manifested in epilepsy, idiocy, and insanity, are inherited with fatal certainty, and in degrees which can be approximately foretold. The new science of eugenics founded by the great scientist, Sir Francis Galton, and developed by masters like

Karl Pearson and many others, brings to social science a new method and a more effective program for action.

We have already seen that, generally, criminals are weaklings, defective in some respect. For this weakness there is often some inherited cause. To cut off the cause is to prevent much crime for the future.* Causes not due to inheritance will be discussed later; in this section we have only transmitted defect in mind. We must deal with one subject at a time.

The first condition of elimination of the dangerous is early and authoritative recognition of serious defects. This would be greatly promoted by the "consultations" or conferences of mothers with physicians which the infant welfare societies are organizing in all civilized countries. By passing many thousands of babies under the skilful touch and sight of physicians inherited defects and peculiarities would be discovered in time to adopt healing methods or to secure isolation.

* See Cesare Lombroso, *Crime, Its Causes and Remedies,* and also my studies published for the Eighth International Prison Congress at Washington, 1910, by the Russell Sage Foundation, entitled *Preventive Agencies and Methods.*

The medical examinations of school children would continue and extend this public knowledge of sub-normal and abnormal children and reveal the need of careful measures of education and elimination.

If in all states all who apply for marriage licenses were required to bring to the officiating officer or clergyman a medical certificate of freedom from transmissible and communicable disease the authorities would be in still better position to take intelligent action in social defense. The only policy on which all convinced advocates of social protection against inherited defect can unite is that of segregation of abnormals in custodial state colonies. Sterilization has been proposed, and in some states is already legal; but public opinion is not ready to accept it generally, or to carry it far; and even if it were adopted we should still be obliged to separate epileptics, idiots, the insane, and immoral parents from general society.

It is asserted that the custodial policy fails because it is not carried out; that too many of the abnormals, some of them dangerous, sure to transmit their defects, are released periodically only to become parents of their kind.

This is not an argument against custody, but against neglect of custody, and in favor of instructing the ignorant public in relation to an urgent demand of modern science.

It is the settled policy of the governments of the United States and of the Dominion of Canada to prevent the landing of diseased, defective, and depraved immigrants; and of recent years the administration of the law has been reasonably effective. (Jenks and Lauck, *The Immigration Problem.*)

2. Beginnings of Degeneration

Not all defects arise from hereditary causes. The children of vigorous parents may be starved or poisoned until they are unfit for life's duties and for parenthood. Take out every abnormal person from a great city and leave the unwholesome dwellings, the saloon, the brothel, the ill ventilated shop, the low wages, and you start a new race of weaklings and rebels. The policy of segregation must run parallel with a policy of improving the physical conditions of existence. Misery and its progeny are not accidents nor providential

impositions; they are natural and inevitable effects of known causes.

Our space permits nothing more than mention of certain important movements and their significance as preventives of crime. We begin with the dwelling, the home of the family. Those who reside in the ample spaces of the country, or who can pay rent for decent urban habitations, find it difficult to realize the perils to character which are presented by the crowded and squalid quarters of congested city blocks. In these tenements men, women, and children jostle each other and the occasions for friction and collision are frequent. The poor family takes in lodgers to help pay the rent, and the rough, unmarried outsiders meet the ignorant, adolescent daughters. When several persons sleep, eat, cook, wash in the same steaming, untidy rooms, the danger of loss of modesty is extreme; it is amazing that so many escape utter ruin; all suffer loss of moral sensitiveness and delicacy. The physical depression and irritability consequent on such conditions multiply the stimuli to anti-social ways.

The social policy which is demanded by these conditions must include the condemnation

of dwellings which fall below a certain standard, the prohibition of payment of rent for their use, the application of a rule forbidding taking lodgers into the same rooms with families, the limitation of numbers according to the space occupied, and the entire legal system enforced by a corps of competent and upright inspectors reporting to city building and medical authorities. The physicians ought to be authorized to set the standards, since health and life are involved, and the city councils should vote appropriations sufficient to make the efforts of the health officials effective.

From the dwelling the wage earners pass daily to the workplace. There also human beings are often exposed to depressing and destructive conditions which call for remedy.

The safety, comfort, and health of work people cannot be left to the individual employer or to the self-interest of the employes; both are generally ignorant of what is necessary, and financial considerations often weigh more than humanity. Law is a protection to enlightened employers, a wholesome direction for the avaricious and stupid, and a necessary defense to those who may be victims of their

own neglect or the injustice of those on whom they depend for bread. The legal regulations in this country may be found in *Labor Laws of the United States* (1907), and subsequent Bulletins of the Bureau of Labor. The laws of Massachusetts, New York, Wisconsin, Illinois, and Ohio merit study. These laws require the guarding of dangerous machinery, the ventilation and lighting of workshops, the removal of poisonous fumes and vapors, and precautions in handling poisonous materials.

The National Child Labor Committee has led a campaign to prevent the exploitation of children, and has successfully cooperated with other agencies in securing the establishment of a Children's Bureau at Washington for the continuous study of the whole problem. The aim of this movement is to keep children in school until they have become intelligent and have a physical maturity equal to the strain of constant labor in close rooms.

The National Consumers' League, under the indefatigable leadership of Mrs. Florence Kelley, has championed the cause of both women and children in industry and sought to educate the conscience of the nation to bring

to an end the crying injustice from which the people suffer.

The Visiting Nurses' Associations in our cities have sent missionaries of health into humble homes and sought out those who required wise help. Boards of health in states and cities have adopted measures for the prevention of disease and improvement of conditions. The school authorities have cooperated; physicians examine children and school nurses follow the sickly pupils to their homes to see that medical counsels are carried out. Public and private philanthropy is bringing dental help to many children and adults who otherwise would suffer in health, energy, and earning efficiency. Everywhere we discover evidences of a deepening conviction that health is necessary to character and to social well-being in all its aspects. Criminals are, as a rule, weaklings; increase physical vigor of the race and the power to resist temptation will be greater.

3. Preventing Crimes Against Property

Most violations of law take the form of acquiring income without working for it. The

best means of preventing such crimes is to promote habits of honest and productive industry.

Children and adults steal to get food and other desirable things. Charitable relief is often necessary to keep the very poor from despair. Hunger knows no law.

But charitable relief may be so unwisely distributed as to create vagabonds and mendicants, and members of this tribe are always near theft. The Charity Organization Society seeks to mitigate immediate distress and at the same time to avoid the destruction of self-respect, ambition, and independence of character, developing the desire to be independent and to earn a living.

Most of the crimes which are committed by recognized offenders are annoyances, like the stings of insects, but do not often involve very large amounts of wealth. The sins of the rich, on the other hand, sometimes rob stockholders and the public of millions and billions of dollars, and load tax-payers with a perpetual burden.

It is possible to make unjust charges, and many a wealthy man or corporation has been accused of injustice by writers who had no

adequate knowledge of modern business and cared only to sell sensational articles. It is true that wealthy men have been prosecuted for actions which were entirely legal and necessary in the conditions of large and complex industries. It is also true that politicians and demagogues have taken advantage of popular ignorance to gain votes by passionate and false appeals to the envy which it is so easy to excite against the fortunate and powerful.

Apparently the American public; since its first awakening to the gigantic danger to which it was exposed by irresponsible managers of vast corporations, has concluded to take a more sane and sober view of the situation. They are not now so much driven by wild clamor into panic. They calmly regard the enormous accumulations of wealth as powerful instruments for public service. They prefer to harness these fine steeds and make them pull the loads rather than starve all the speed and pulling power out of them by foolish legislation. One thing is certain, the American people are determined not to be kept in ignorance, and have made up their minds to impose reasonable conditions upon financial power. By a clear

legal grant of license to act, coupled with a capable administration for supervision and control, the nation hopes to secure all the advantages of the great industry and its magnificent managers, without suffering injustice and without encouraging monstrous abuse of privilege.

The pure food and drug laws, the public service commissions, the Interstate Commerce Commission, are illustrations of a tendency which is accepted as fair and necessary by many of the masters of finance and commerce.

The American people do not wish to cripple the finances of railways, nor do injustice to millionaires. They believe in fair play. But how can we expect Demos to be wise in the dark? How can men form an enlightened judgment when so much is concealed from them, even when their bread, tea, clothing, and modest comforts are at stake? Once assured that consumers and stockholders are to have frank, straightforward, public accounts, on which experts can frame a just judgment, the directors of corporations will have nothing to fear. The only salvation for great wealth is that it learn to give the facts to its masters and deal justly with them. If capitalists wish

property rights to be respected they must cease to purchase franchises by bribery.

The causal relation between the agencies of *vice and those of crime* is well established and widely known. Alcohol stimulates sexual appetite and at the same time deadens the brain centers of moral inhibition. With numerous exceptions, which must be admitted in the interest of honesty and fair play, the saloons are lawless and are breeders of both vice and crime. Many of them derive enormous profits by hiring prostitutes to induce foolish men to buy low grade drinks at high prices. The saloon is often a "fence" for stolen goods, and an assembly room for those who plot crimes. From the saloon staggers the brute who reels home to beat his wife and children. There are many saloons which create vagabonds and mendicants. The control and gradual extermination of the saloon and the brothel are parts of the program for the prevention of crime.

4. Identification of Criminals

When society adopts modern and rational methods of dealing firmly and effectively with

offenders rather than attempting to "punish" single acts of crime, it will discover the necessity of having complete histories of all its wayward members. Anti-social men are compelled to change their names and assume various disguises; like hunted wild animals they try to conceal their trades. The Bertillon and finger-print systems have been devised to make these shifts and evasions useless. Gradually all serious offenders will acquire a record in some central office where their biographies are written in the hall of infamy. These records are also in the interest of poor and obscure men who happen to resemble certain criminals, but who are themselves honest and who are liable to arrest for the deeds of crooks. Let the most obscure citizen associate a lifetime of integrity with his finger prints recorded in a public office and the most cunning criminal cannot make a court believe he is an offender.

5. *Preventive Agencies Under the Direction of Educational Authorities*

Play. — The purpose of education is to give conscious and rational direction to the physical

and spiritual development of every young citizen, to fit him for his duties in all social relations, to implant in his soul the good seed of the noblest ideals of progress to a better fortune.

It is the function of play to rehearse all possible rôles in the drama of adult life, to practice all possible modes of action, to work out all useless instincts, to "let the ape and tiger die," and to utilize all desirable impulses toward wholesome conduct. Play is the mode in which the delight of work is learned and all powers of body and mind become servants of will and reason. Recreation in adult life is redemption from the killing monotony of modern specialized industry, which in itself and alone tends to make men monsters. Play being essentially educational in its social purpose, should be under the direction and control of the recognized educational authorities of city, county, and state. We have lost much time and dissipated much energy by placing our municipal recreations under separate park boards composed of men whose primary interest is not in education. It is not enough to have playgrounds about schools and attached to them,

and to have others which have no definite social purpose; we need one unified system in which play shall have a clearly recognized place as an essential factor in the development of citizens, beginning with children and youth.

The street, the alley, and even the public park, without educational supervision and direction, easily become schools of vice and crime. Leisure hours are times of moral peril to boy and man; they can be made occasions of liberation of faculty, of inspiration to new flights of the spirit, of higher culture.

There is, of course, some danger that the plays of children may fall under the control of unsympathetic pedagogues who have forgotten, if they ever knew, the needs of childhood and youth; but a still greater danger is that they may be left to policemen and charlatans who are still more ignorant of the aims and processes of modern education.

Our cities are slowly coming to open their eyes to the moral dangers of "hooliganism," of gangs of rowdies who enjoy the liberty of adults without the wisdom and experience of mature years. The instincts of children claim the street or any open space available for play;

the police represent order in a world which is unintelligible to the child; and the result is a conflict between natural and healthy impulse and the representation of law. This conflict trains youth to hate all which the baton of grown-up justice represents. Justice must, to be respected, do justice to the rights of childhood and youth; must give room for play, provide facilities for exercise in the open, supply tools and materials for the building and constructive instincts of the young, and thus furnish an outlet and expression for inward impulses which can easily be guided to useful activities. The everlasting threat "keep off the grass" provokes rebellion; the open playground, with its joy of achievement, its sports under law, its appeal to loyalty, friendship, and fair play, is the primary school of citizenship and one of the most potent means of diverting immoral forces into moral channels.*

The less children and youth think of vice and crime, the better for their character, and collision between their desire for recreation

*The Playground and Recreation Association of America, 1 Madison Avenue, New York City, publishes, as its organ, *The Playground*.

and the representatives of law is a tragedy entirely needless and cruel.

6. Introduction to the World of Work

Premature drudgery kills higher faculties; but tardy acquaintance with the discipline of regular habits of useful labor is at the threshold of crime. The storm and stress period begins with adolescence; there guidance is most needed; there, unfortunately, all modern nations have prematurely relaxed discipline. Under the ancient system the apprentice lived in the house of his master, only half free and often more than half a drudge and serf. The apprenticeship system has disappeared, and with it the firm control of youth which went with it. In its place has come child labor and the independent purse of the lad and of adolescent girls; but the prudence, foresight, and self-control of manhood and womanhood do not at once arrive with the possession of earnings and the appetites of youth. The legal school age ends at fourteen, and often before that the state abandons youth to itself, its passions, its ignorance, its caprice. The conse-

quence is increase of precocious criminality, and this result is natural and inevitable.

When parents are wise and also well-to-do, they give their young people occupation and keep them under the regulated life of schools; but in our great cities many parents are poor, their children must early go to earn something and learn a craft. The dwellings are crowded; there is no room for companions; work is monotonous and meaningless, or irregular; and the consequence is vagabondage, vice, and crime.

Can anything be done? The remedy is at hand and easily understood. Extend the age of public educational supervision from fourteen to nineteen, and provide better training and guidance for the occupations known in the commonwealth. Play, sleep, food, study, and useful work are necessary to full development of the good citizen.

Work as a Preventive and Cure of Crime. — Speaking of a habitual thief who sincerely reformed and became an honored citizen, Mr. William Allan Pinkerton, the well-known detective, said: "In his case, being a criminal was certainly not the result of any inherent

and uncontrollable tendencies. He became a criminal through his environment and the lack of opportunity to learn an honest way of earning a living. And that is the way most criminals are made. The most important social reform we need is one that will make it possible for every human being to find out, as early in life as possible, what he or she is best fitted for, and will then give the opportunity to every one to fill his appointed niche in the scheme of things." (*Hampton's Magazine*, May, 1912, p. 269.)

Rhythmic play is the common root out of which have grown work and art. The dance, the chant, the song, the drama, the poem, the carving, the picture, are the forms in which men remember past experiences and collect energy for new effort. We cannot forever be satisfied with what happens each moment and in the narrow cell of the present. We must recall achievements and celebrate them, glorify our heroes, idealize them, and prepare for future conquests. It is the divine mission of noble and pure art at once to exalt and to control emotion; to stir individual ambition and subjugate it to service of the community.

The recreations of youth are rehearsals for life's concert, for its battles, its love-making, its home-making, its nest-building, its rearing of children, its labor for food and shelter, its organization of individuals into armies of defense, aggression, and construction; and the arts are recreative activities. They prevent crime by affording a natural outlet to human desires of which none need be ashamed as long as men do not trespass on the rights of others or degrade themselves.

CHAPTER X

The Power of Religion

IN this final chapter we consider the influences of religion and the duty of the churches.

It has long been understood that religion was a compeller of fear of punishment, and many a church member and minister still thinks that is its chief function. Religion is a terror to the evil doer, although the influence of fear wanes as character is debased and the criminal becomes a gambler. Robert Burns said:

> The fear o' hell's a hangman's whip
> To haud the wretch in order.

Unfortunately, the more a man is a wretch the less fear he has for remote and unseen consequences.

1. The Prohibitions and Inspirations of Religion

It is an entirely different inhibitory function of religion that is here to be emphasized:

"perfect love casts out fear." Religion as friendship is the genial sun which makes the obdurate willing to remove the cloak, when the harsh and biting blasts of winter have made him draw its folds more tightly about him. When the forgiving Christ is lifted up he draws all men unto himself. Religion taking on the form of incarnate friendship in prison, in hospital, in mine, in factory, and warehouse, gradually makes men immune to temptation.

Out of the depths of an English jail, a gifted but wicked poet uttered a sigh and made his appeal to human and divine compassion. And from a bitter experience of shame and deserved punishment he made the re-discovery of Jesus the Master of wisdom and pity. Thus wrote one who says of himself: "I had lost my name, my position, my happiness, my freedom, my wealth. I was a prisoner and a pauper. But I still had my children left. Suddenly they were taken away from me by the law." And of Jesus he said in this hour of darkness: "With a width and wonder of imagination that fills one almost with awe, he took the entire world of the inarticulate, the voiceless world of pain, as his kingdom, and

made of himself its external mouthpiece. . . . He sought to become eyes to the blind, ears to the deaf, and a cry in the lips of those whose tongues had been tied. . . . He made of himself the image of the Man of Sorrows. . . . He understood the leprosy of the leper, the darkness of the blind, the fierce misery of those who live for pleasure, the strange poverty of the rich. . . . So that at the present moment all who come in contact with his personality . . . in some way find that the ugliness of their sin is taken away and the beauty of their sorrow revealed to them." *

The employer who believes in the divine and eternal power of kindness creates in the realm he rules an atmosphere of loyalty; he represents his creed as justice in action. It is said that corporations have no souls; but their directors have souls and are, in our commercial country, regarded by workingmen as the chief representatives of religion. Some corporations have employed experts to study out ways of making life brighter for the employes. When most of the business of the country is under the control of huge corporations, and these

* Oscar Wilde, *De Profundis.*

corporations have Christianized directors, the progress of religion will be much more rapid and effective.

But all which depends on the personal good will of employers smacks of charity and is insecure. Wage earners have a sound and rational distrust of personal favors. Frequent experiences of deception have taught them suspicion. So long as their interests are at the mercy of personal benevolence they are in hazard. There is no positive guarantee of justice except in law. This explains the world-wide movement of wage earners to extend the franchise, to gain political power and representation by men of their own group, and social legislation.

Therefore, while religious men should do all they can as individual managers, they must see that in this way they cannot go far. A generous president of a corporation may be succeeded by a skinflint, a cynical brute. Furthermore, unless a policy of justice is embodied in law it cannot be made universal and the advantage in competition goes to the miser who hunts men as with a net. Those who sincerely desire to see their nobler ideals made practical

and effective must help to have them made over into law. This was the doctrine to which Emperor William I of Germany made appeal when, with the iron Bismarck's aid, he asked the imperial parliament to enter upon its wonderful policy of protecting the interests of workingmen by law, and so set an example for all the governments of the world.

There is great anxiety about respect for law in this country, and all of us are alarmed at the signs of contempt, hatred, and insolence with which courts are sometimes treated by crowds of strikers. But have we duly considered the fact that hundreds of thousands of poor men have never found much in law which aroused respect or kindled devotion? In youth the law said "keep off the grass," "move on," "don't play in the street." The policeman was the natural enemy of the gang and spoiled all their joys. The city council made countless regulations restrictive of agreeable activities but never provided room or means of enjoyment. The government cleaned the avenues and left the back streets filthy. If a poor man went to court with a rich man in defense of a claim he lost it by a technicality or paid half of the

award to a lawyer. Such experiences, brooded over and discussed by workingmen, transform honest toilers into rebels.

Numerous other examples could be given of the negative and repressive aspect of government in the eyes of the industrials. To overcome this prejudice we must educate our young people to realize what government already does for them which they overlook; and we must make law and government the expression of a religious and moral purpose to do justice and promote mercy.

The preaching of individual kindness and justice is desirable, but, in view of the facts of modern industrial and municipal life, it seems petty and falls short of complete justice. It is in this field of law that we must incorporate our worship of the Savior of mankind.

When the multitudes have become accustomed to see the government eager and active in protecting them from accident and disease, in bringing justice to them without attorney's fees and prohibitive costs, in organizing insurance for them against the hours of calamity and the weakness of old age, in securing pensions for declining years and education for

their children suited to their needs — then patriotism will become instinctive and universal. And when they see that religious men have valiantly and patiently united with them to make justice legal and sure they will be more inclined to reverence the Church.

In such a universal atmosphere of patriotism and reverence we shall hear less of lawlessness and the conflicts between the workingmen and the courts.

2. The Men of the Church and Their Duty

The Church has no legal authority or administrative power in the United States. The State and Church are separate and independent. It would be a backward movement for the Church to seek once more to exercise control over legislatures, judges, and administrative officers. Any attempt to dictate party platforms to politicians or to deliver the votes of church members for any particular party would excite bitter hostility and would divide the Church itself into warring factions.

But this does not mean that religious associations are impotent or that they are excusable

for neglect. Their functions are simple and clear, and their duties are imperative.

(a). — The Church is a fellowship of disciples, that is, of students; every ecclesiastical organization, local or general, should promote the free and intelligent discussion, under the wisest and most instructed leadership, of the fundamental moral problems of conduct. Out of such discussions men will come with sober judgment and clearer convictions. No evil can long exist in the blaze of daylight; sunshine is deadly to germs and discussion to wrongdoing. Publicity, with competent interpreters, is the safeguard of the common weal. These studies should be systematic, protracted, serious. The federation of Churches has long since comprehended the grounds for this action and entered upon its campaign of education.

The members of a church must be left absolutely free to follow their own consciences without artificial pressure; but liberty to think and act is sure to lead to unity of action. Truth is one and the human reason is made to discover and recognize truth. Outward constraint produces hypocrisy; free study fosters sincere cooperation.

(b) A Positive Program of Appreciation.— We have made a stupendous mistake with our negative policies. The "reformers" have done some good and also much evil. Too often they have been more belligerent than tactful. It has been a blow and then a word, and then reflection.

The proper attitude for the men of a church toward public administration ought to be one of helpful sympathy, of cooperation. Men elected by the people should be trusted until proved to be derelict. Confidence and gratitude open the heart. Many ineffective officers are more weak than wicked; most men crave honor and recognition. "Amelioration" is a larger ideal than "reform."

For example: Most policemen are brave, ready to risk their lives for our lives and property, and frequently perform actions which merit praise. They protect women and children, arrest robbers, help extinguish fires; why not, after due inquiry, appoint a committee from the local federation of churches to visit such heroes after some notable deed and leave with them a statement of grateful acknowledgment?

A Catholic policeman rescued a poor immigrant girl from a panderer and saved a soul from death; why not let a Protestant society send a cordial letter to his priest or bishop? A sheriff has opened windows and let wholesome light and air into a noisome and pestilential jail and improved the diet; should he not be lauded for his action, even if he is crooked in some places? Some judge has introduced juvenile court methods in cases of young offenders, even where law did not yet require it; he also should have public honor for his effort.

When officials are rightly approached in this spirit they are more frank and communicative; if they discover an attempt to spy upon them for sensational attacks, they withdraw into their shells.

A little courtesy will unlock doors of triple brass; assault makes office holders suddenly forget the combination to their record vaults and lose documents. Even a knave will occasionally try to live up to a good name by which decent people address him.*

* *The Church and Society*, by R. Fulton Cutting, LL.D., *The Church and the Police*, p. 68.

3. Suggestions for the Churches

(a).—Study carefully the condition, use, and administration of your county jail, using some analysis and standard similar to that presented in preceding pages of this book. A physician should report on its sanitary state; a lawyer on the question whether the administration strictly observes legal requirements; some competent person acquainted with prison science should report whether the jail and its work are in harmony with penological principles and what can be done to improve them. Religious influences should be supplied, largely by reading matter, and offers of friendly help for young offenders who need employment and other aid.

(b).—If you have no association or committee for the protection of children and youth, form one for the county; if one exists, inquire of its officers and the juvenile court judge what it needs. Do not divide forces. See that money is provided to pay salaries to regular probation officers and cooperate with them. Help find work and vocational training for youth who are friendless. Make sure that chil-

dren are not separated from their honest parents simply by reason of poverty.

(c). — Have you a probation and parole law in your state? If not, organize a competent committee to secure it and see that competent, humane, upright men are appointed to administer it.

(d). — Learn all you can about the character of the officers in charge of the state prisons, reformatories, and reform schools. Do not start out with suspicion and intention to criticize, but to be helpful. If you do find the officials ignorant, base, and hard, and so incapable of reforming men, work for an improvement.

(e). — Study a program of prevention and work to have it carried out.* Concentrate effort on provision of playgrounds under good teachers; vocational guidance and training; boys' clubs under genial but steady leaders. Has your state a custodial institution for feeble minded persons? One for epileptics? These deplorable conditions of the body and mind are inherited; their victims should never be permitted to become parents, and thus to

* C. R. Henderson, *Preventive Agencies and Methods;* J. Lee, *Constructive and Preventive Philanthropy;* Sidney Webb, *Prevention of Destitution.*

propagate misery, vice, and criminality. In self-supporting colonies they may be made comfortable and relatively happy; and in such surroundings all the consolations of friendship and religion may be enjoyed unhindered by the distractions and fierce temptations of the free world where the weak are victims of greed and lust of shrewd but unprincipled persons.

4. An Outlook

Perhaps many persons have refused to spend time and strength on the combat with crime because they regard it as a merely evanescent evil which will some day be abolished. The writer also looks forward with chastened hopefulness to the disappearance of vice and crime. But some considerations may bring us back to our present duty and to the disagreeable and often revolting task. In our age crime is a terrible reality; we know not what will be after a few centuries; we know what we have to fight now. Think of an analogy: the medical profession works to banish disease and has already abolished some of the worst plagues; yet medical schools and laboratories are estab-

lished and maintained because we must deal with the problems of our own day; our successors will be guided in their times.

Furthermore the ideals and motives which we cultivate in this combat have worth for the future and will enter into the best which the world will ever experience. Marathon, Bunker Hill, and Gettysburg were battles of long ago; but we today live by the ideas which inspired all the struggles of the past.

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